معارف الحديث

MEANING AND MESSAGE OF THE TRADITIONS

(MA'ARIFUL HADITH)

Volume Four

Part VII & VIII

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PART-VIII

MARRIAGE AND OTHER RELATED MATTERS

In the Age of Ignorance, before the advent of the holy Prophet ﷺ, many forms of matrimony and practices of having children were prevalent among the Arabs, some of which were, positively, hateful. Of these arrangements, one was correct, in principle, and dignified. The sacred Prophet ﷺ adopted it with suitable changes and rejected the others as sinful.

The form of *Nikah* (marriage) enjoined by the holy Prophet ﷺ, by his sayingsas well as practice, was that the proposal was made, on behalf of the man, to the parents or guardians of the woman, and if thy found it suitable, they accepted it, after obtaining her consent, if she had come of age, and, on the basis of their own good judgement if she happened to be a minor, and had her married. This method, obviously, is most appropriate.

Since the real responsibilites accuring from marriage devole on woman and she has to fulfil them throughout her life, her voluntary acceptance has been made necessary. Yet, at he sametime, it due consideration of teh dignity of the fair sex, it has been provided that the betrothal and wedding of a woman should be settled through her elders and it is they who should give her in marriage. It would, indeed, not be consistent with feminine honour if the woman arranged directly whose wife she was going to be and came up to give hereself in marraige to someone.

Besides, the effects and consequences of a woman's marriage are, generally, shared by her family, the elders, too, have, to an extent, been given a say in the matter. It was, also, quite possible that if the whole affair was left in the hands of the woman and the elders were kept aloof, she fell a prey to the deceitful overtures of the wooer and made a wron choice. For these reasons, it has been

thought better and wiser that, leaving aside the exceptional cases, the marriage of a woman was settled and performed through the agency of her elders.

Another instruction, in this regard, is that if the man has not yet seen the woman with whom his marraige is going to be arragned, he should see her, if possible, before the offer is made so that he may not be disappointed in the end. The object can, also, be gained, in some degree, by the girl being seen by a few reliable ladies of the man's family.

Yet another thing is tht if a request has already been made, on behalf of any other man, for the hand of girl, a proposal should not be made for her until the earler offer has been declined.

It, also, is essential that marriage was not be contracted in secrecy. It ought to be celebrated poenly, and in the presence of some persons who may act as a witness to it. Prefeably, marriage should be performed in a mosque. It is , further, confirmed by the practice of the holy Prophet ﷺ that a sermon was delivered on the occasion.

The offering of *Mahr* (dower or marriage-protion) from the side of the man to the bride, too, has been prescribed as an essential part of wedding.

Rule And Traditions Concerning Union Oof Man And Woman, And Off-Spring During The Age of Ignorance

(١٦٧٢/١) عَنْ عَائِشَةَ اَنَّ النِّكَاحَ فِي الْجَاهِلِيَّةِ كَانَ عَلٰى اَرْبَعَةِ اَنْحَاءٍ فَنِكَاحٌ مِنْهَا نِكَاحَ النَّاسِ اَلْيَوْمَ يَخْطِبُ الرَّجُلُ اِلَى الرَّجُلِ وَلِيَّتَهٗ اَوْ اِبْنَتَهٗ فَيُصْدِقُهَا ثُمَّ يَنْكِحُهَا وَنِكَاحٌ اٰخَرُ كَانَ الرَّجُلُ يَقُوْلُ لِاِمْرَأَتِهٖ اِذَا طَهُرَ تْ مِنْ طَمْثِهَا اَرْسِلِىْ اِلَى فُلَانٍ فَاسْتَبْضِعِىْ مِنْهُ وَيَعْتَزِلُهَا زَوْجُهَا وَلَا يَمَسُّهَا اَبَدًا حَتّٰى يَتَبَيَّنَ حَمْلُهَا مِنْ ذَالِكَ الرَّجُلِ الَّذِىْ تَسْتَبْضِعُ مِنْهُ فَاِذَا تَبَيَّنَ حَمْلُهَا اَصَابَهَا زَوْجُهَا اِذَا اَحَبَّ وَاِنَّمَا يَفْعَلُ ذَالِكَ رَغْبَةً فِىْ نَجَابَةِ الْوَلَدِ فَكَانَ هٰذَا النِّكَاحُ نِكَاحَ الْاِسْتَبْضَاعِ وَنِكَاحٌ اٰخَرُ يَجْتَمِعُ الرَّهْطُ مَادُوْنَ الْعَشْرَةِ فَيَدْخُلُوْنَ عَلَى الْمَرْأَةِ كُلُّهُمْ يُصِيْبُهَا فَاِذَا حَمَلَتْ وَوَضَعَتْ وَمَرَّ عَلَيْهَا لَيَالٍ بَعْدَ اَنْ تَضَعَ حَمْلَهَا

اَرْسَلَتْ اِلَيْهِمْ فَلَمْ يَسْتَطِعْ رَجُلٌ اَنْ يَّمْتَنِعَ حَتّٰى يَجْتَمِعُوْا عِنْدَهَا، تَقُوْلُ لَهُمْ قَدْ عَرَفْتُمُ الَّذِىْ كَانَ مِنْ اَمْرِكُمْ وَقَدْ وَلَدتُّ فَهُوَ اِبْنُكَ يَافُلَانُ تُسَمِّىْ مَنْ اَحَبَّتْ بِاِسْمِهٖ فَيَلْحَقُ بِهٖ وَلَدُهَا وَلَا يَسْتَطِيْعُ اَنْ يَّمْتَنِعَ مِنْهُ الرَّجُلُ وَالنِّكَاحُ الرَّابِعُ يَجْتَمِعُ النَّاسُ الْكَثِيْرُ فَيَدْخُلُوْنَ عَلَى الْمَرْاَةِ لَا تَمْتَنِعُ مِمَّنْ جَاءَ هَا وَهُنَّ الْبَغَايَا كُنَّ يَنْصِبْنَ عَلٰى اَبْوَابِهِنَّ رَأَيَاتٍ تَكُوْنُ عَلَمًا فَمَنْ اَرَادَهُنَّ دَخَلَ عَلَيْهِنَّ فَاِذَا حَمَلَتْ اِحْدَاهُنَّ وَوَضَعَتْ حَمْلَهَا جُمِعُوْ الَهَا وَدَعَوْا لَهُمُ الْقَافَةَ ثُمَّ اَلْحَقُوْا وَلَدَهَا بِالَّذِىْ يَرَوْنَ فَالْتَاطَ بِهٖ وَدُعِىَ ابْنَهٗ لَايَمْتَنِعُ مِنْ ذَالِكَ...... فَلَمَّا بُعِثَ مُحَمَّدٌ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ بِالْحَقِّ هَدَمَ نِكَاحَ الْجَاهِلِيَّةِ كُلَّهٗ اِلَّا نِكَاحَ النَّاسِ الْيَوْمَ. (رواه البخارى)

(1672/1) It is related by Sayyidah Ayshah رضى الله عنها that "four forms of marriage, i.e., union of man and woman were in vogue in the Age of Perversoin. One was what is practiced today as well, i.e., a request of his daughter or ward and the latter marriaed her to him on the settlement of an appropriate *Mahr*.

"Another way was that when the wife of anyone had finished her monthly course, (it is a time when the fertility of a woman is higher), he would tell her to invite such-and-such a man (of superior birth or status) to have seuxal relations with her, (and, thus, try to concieve a child from him). The husband used to keep away from her until she had concieved and would have sex with her only when the signs of pregnancy had appeared. All this was done with the object of obtaining a son of noble birth and possessing good qualities. It was called *Nikah* Al-Istibda[1].

"The third method was that a group of men, (the word used in the text is *Raht* which denotes 'less than ten'), approached a woman, and each of them had sex with her, (and it took place with her consent), and if the woman became pregnant, and ave

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❶. The abnoxious custom was prevalent among some tribes of the Arabs during those days, It was like this: Suppose a low-class man wanted his son to be brave, strong or handsome, he would tell his wife to have sexual relations with a man possessing a simillar quality so that she might concieve from him and the son that was born to her was like the man who had fathered him. It is called istibda' in Arabic and was very much similar to the practice of *Niyog* existing in the ancient Hindu society. The details of it are given by the founder of Arya Samaj, Swami Saraswati, in his well-known book, *Satyarth Prakash*.

birth to a child, she called all those men, and, (according to the custom), none of them could refuse to come, and when they had collected, she would say to them: 'You know what happened (on that occasion), and, as a result of it, this child has been born to me.' She would, then, identify whosoever of them she liked as the father of the child, and it was acknowledged as his child, and he could not decline to accept it.

"The fourth was that a woman used to have seuxal relations with several men, (and) there was no restirction on anyone. These were the prostitutes, on the doors of whose apartments there used to be a sign indicating that everyone was welcome. When such a woman became pregnant and a child was born to her, all the men who had sex with her would gather, and the specialists in the line were called in, and they, from the facial appearance of the child, would fix its paternity, and it would, then, become the child of the man, thus, named and he could not refuse to accept it." (After narrating all these forms of union, Hazrat Ayshah رضی اللہ عنہا observed): "When the Holy Prophet ﷺ was raised up by God with truth, he abolished all the despicable and rotten coustoms that were prevalent during the days of Perversion, and (only the good and the clean) method remained which is, now, being followed." (Bukhari)

Commentary: It can be imagined from the above in what filth and debasement the Arabs were immersed at the time of the raising up of the sacred Prophet ﷺ.

اللھم صل علی سیدنا محمد عبدک و نبیک رسول الرحمة مخرج الناس من الظلمت الی النور باذنک وبارک وسلم.

It is Better To Have One Look At The Woman One is Intending To Marry

(١٦٧٣/٢) عَنْ مُحَمَّدِ بْنِ مَسْلَمَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِذَا اَلْقَى اللهُ فِيْ قَلْبِ امْرِءٍ خِطْبَةَ اِمْرَأَةٍ فَلَا بَاسَ اَنْ يَنْظُرَ اِلَيْهَا.

(رواه احمد وابن ماجه)

(1673/2) It is related by Muhammad ibn Maslamah ﷺ that the Messenger of Allah ﷺ said: "When the Lord may put the intention of marrying a woman into anyone's heart, it is not

sinful to have one look at her." (Musnad Ahmad and Ibn Majah)

(١٦٧٤/٣) عَنِ الْمُغِيْرَةِ بْنِ شُعْبَةَ قَالَ خَطَبْتُ اِمْرَأَةً فَقَالَ لِيْ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ هَلْ نَظَرْتَ اِلَيْهَا؟ قُلْتُ لَا، قَالَ فَانْظُرْ اِلَيْهَا فَاِنَّهُ اَحْرٰى اَنْ يُّؤْدَمَ بَيْنَكُمَا.

(1674/3) Mughirah ibn Shu'bah ﷺ narrated When I made the offer to marry a lady, (or thought of doing so), the Messenger of Allah ﷺ enquired if I had seen her, and, on my replying in the negative, he said: 'Have one look at her. It will be helpful in promoting love and pleasantness between you."

(Tirmizi and Ibn Majah)

Commentary: Marriage is a very serious matter and a life-long partnership. It should not be taken lightly and settled in the dark, but with open eyes. Correct information about the girl can, also, be obtained through trustworthy persons, specially ladies. Care should, however, be taken that it did not cause annoyance or inconvenience to the girl or her family, and, better still, that it was done without their knowledge.

It is stated in *Abu Dawood*, on the authority of Hazrat Jabir ﷺ, that when he decided to make a request for marriage with a girl, he tried to see her, without her knowledge, and on the advice of the sacred Prophet ﷺ, until he succeeded.

An Offer Should Not Be Made Upon Another Offer

(١٦٧٥/٤) عَنْ اَبِيْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ لَا يَخْطِبُ الرَّجُلَ عَلٰى خِطْبَةِ اَخِيْهِ حَتّٰى يَنْكِحَ اَوْ يَتْرُكَ. (رواه البخاری ومسلم)

(1675/4) It is related by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "No one should make a proposal (of marriage) against the proposal of his brother, i.e., any other person until he (the latter) weds (another woman) or withdraws the offer."

(Bukhari and Muslim)

Commentary: It shows that if a man has made an offer of marriage with a girl, it is not proper for anyone else to propose for her until the earlier offer has been rejected or taken back.

The Consent of The Woman And The Position Of Her Guardians in Relation To It

(١٦٧٦/٥) عَنْ اِبْنِ عَبَّاسٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الثَّيِّبُ اَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا وَالْبِكْرُ يَسْتَاْذِنُهَا اَبُوْهَا فِىْ نَفْسِهَا وَاِذْنُهَا صُمَاتُهَا.
(رواه مسلم)

(1676/5) It is related by Abdullah ibn Abbas ﷺ that the Messenger of Allah ﷺ said: "A woman who has been through a husband has a greater authority over herself than a guardian, and the father of a virgin should obtain her consent regarding marriage, and silence, too, is (a form of) consent." (Muslim)

(١٦٧٧/٦) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَا تُنْكَحُ الْاَيِّمُ حَتّٰى تُسْتَامَرَ وَلَا تُنْكَحُ الْبِكْرُ حَتّٰى تُسْتَاذَنَ، قَالُوْا يَارَسُوْلَ اللهِ كَيْفَ اِذْنُهَا؟ قَالَ اَنْ تَسْكُتَ. (رواه البخارى ومسلم)

(1677/6) It is related by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "A woman who has been through a husband should not be married (again) until she has been sounded about it, and an unmarried woman should, also, not be married without her consent." The Companions ﷺ, upon it, enquired what would be the way of knowing whether she was willing or not." Her silence, (on being asked)." replied he Prophet ﷺ, "will denote her willingness." (Bukhari and Muslim)

Commentary: The literal meaning of the word *Aiyyim*', occuring in the original, are 'a woman without a husband', but, in this Tradition, it denotes a woman who has separated from her husband after the marriage, or after living with him for sometime, either on account of the death of the husband or divorce. The same kind of woman has been described as *Saiyyib* in Abdullah ibn Abbas's narrative. About such a woman it is stated in both the aforementioned Traditions that she should not be married without her approval which can be expressed veriablly or by a clear sign. This is what *Hatta Tustamar*, used in the text, denotes.

As against it, *Bikr* -a 'maiden', a 'virgin' denotes gril who has attained puberty, but is still unmarried. About her, the rule is that she should not be married without her consent, but as, it is,

generally, difficult for a girl like her to convey her willingness through the speach or a clear sign, her keeping quiet when asked has declared o be the equivalent of consent.

The purport of both the Traditions, in any case, is that the marriage of a woman who has come of age should not be performed by her guardian without her consent, no matter whether she is a maiden or has been through a husband.

If, however, a girl is too young in years to decide for herself and a good match is available, and it is in her interest that she is married to him, her guardian can do so out of sincere goodwishing.

It may be recalled that Sayyidina Abu Bakr ﷺ, had married his daughter, Sayyidah Ayshah رضی الله عنها, to the Holy Prophet ﷺ when she was only six or seven years old.

(١٦٧٨/٧) عَنْ اَبِیْ مُوْسیٰ عَنِ النَّبِیِّ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ قَالَ لَا نِكَاحَ اِلَّا بِوَلِّیٍ. (رواه احمد والترمذی وابو داؤد و ابن ماجه والدارمی)

(1678/7) It is related by Moosa Ash'ari ﷺ that the Messenger of Allah ﷺ said: "There can be no *Nikah* (marriage) without the guardian."

(Musnad Ahmad, Tirmizi, Abu Dawood, Ibn Majah and Daarmi)

Commentary: What it, apparently denotes that the *Nikah* of a girl should be performed through her guardian. It is not proper for a woman to have her marriage solemnised on her own. It does not go well with her natural sense of modesty and self-respect, and can, also, lead to unpleasent consequences.

Nevertheless, as already stated, the woman has the final say in the matter, and the guardian cannot marry her to anyone against her wish.

Marriage Should Not Be Solemnised in Secrecy

(١٦٧٩/٨) عَنْ عَائِشَةَ قَالَتْ قَالَ رَسُوْلُ اللّٰهِ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ اَعْلِنُوْا هٰذَا النِّكَاحِ وَاجْعَلُوْهُ فِی الْمَسَاجِدِ وَاضْرِبُوْا عَلَیْهِ بِالدُّفُوْفِ. (روا الترمذی)

(1679/8) It is related by Sayyidah Ayshah رضی الله عنها that the Messenger of Allah ﷺ said: "Perform the marriage openly, and in the mosque, and have the tambourine played." (Tirmizi)

Commentary: Perhaps, the idea behind it is that if a marriage is solemnised secretly, it can give rise to irresponsible talk and lead to frustrating developments. It should, therefore, be performed publicly, and, perferably, in a mosque where, apart from the blessings of the place, no special invitation is needed for the occasion and the provision concerning the witness, too, is easily fulfilled.

As for the playing of the tambourine, it was a common feature, during the days of the sacred Prophet ﷺ, on occasions like marraige. A wedding ceremony should, in any case, not be althogether devoid of entertainment. Hence, the Prophet ﷺ has permitted, or rather encouraged the palying of the drum when a marriage is celebrated.

Witness

(١٦٨٠/٩)·عَنْ اِبْنِ عَبَّاسٍ اَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ الْبَغَايَا الَّتِيْ يَنْكِحْنَ اَنْفُسَهُنَّ بِغَيْرِ بَيِّنَةٍ. (رواه الترمذی)

(1680/9) It is related by Abdullah ibn Abbas ؓ that the Messenger of Allah ﷺ said: "The women who marry without a witness, i.e., secrecy are adulteresses."

Commentary: Imam Tirmizi has quoted this Tradition as a *Murfoo'*[1], on the authority of Abdullah ibn Abbas ؓ, as well as *Mauqoof*[2], i.e., it is not actually a saying of the Prophet ﷺ, but Abdullah ibn Abbas's ؓ own utterance or fiat, and preferred the latter view on the basis of the evidence of transmission. But, even if it is an utterance of Abdullah ibn Abbas ؓ, he would not , surely, have said such a thing on his own, and without hearing it from the Messenger of Allah ﷺ.

It, thus, belongs to the class of *Murfoo'* Traditions according to the criterion laid down by the authorities, and almost all the Jurists are agreed that witnesses are essential to the performance of a marriage. A marraige is null and void if it is solemnised without the presence of persons who testify that the event has duly taken place.

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❶. The report of saying of the Holy Prophet ﷺ which is attributed directly to him.

❷. The report of a saying which is attributed to a Companion or Companions.

The Sermon of Marriage

(١٦٨١/١٠) عَنْ عَبْدِاللّٰهِ بْنِ مَسْعُوْدٍ قَالَ عَلَّمَنَا رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ خُطْبَةَ الْحَاجَةِ اَنَّ الْحَمْدَ لِلّٰهِ نَسْتَعِيْنُهُ وَ نَسْتَغْفِرُهُ وَ نَعُوْذُ بِاللّٰهِ مِنْ شُرُوْرِ اَنْفُسِنَا مَنْ يَّهْدِى اللّٰهُ فَلَا مُضِلَّ لَهُ وَمَنْ يُّضْلِلْ فَلَا هَادِىَ لَهُ وَ اَشْهَدُ اَنْ لَا اِلٰهَ اِلَّا اللّٰهُ وَاَشْهَدُو اَنَّ مُحَمَّدًا عَبْدُهُ وَ رَسُوْلُهُ يٰٓاَيُّهَاالَّذِيْنَ اٰمَنُوْا تَّقُوااللّٰهَ الَّذِىْ تَسَاءَ لُوْنَ بِهٖ وَالْاَرْحَامَ اِنَّ اللّٰهَ كَانَ عَلَيْكُمْ رَقِيْبًا ۝ (النساء ٤:١) يٰٓاَيُّهَاالَّذِيْنَ اٰمَنُوْا اتَّقُوااللّٰهَ حَقَّ تُقَاتِهٖ وَلَا تَمُوْتُنَّ اِلَّا وَاَنْتُمْ مُّسْلِمُوْنَ ۝ يٰٓاَيُّهَاالَّذِيْنَ اٰمَنُوْا اتَّقُوا اللّٰهَ وَقُوْلُوْا قَوْلًا سَدِيْدًا يُّصْلِحْ لَكُمْ اَعْمَالَكُمْ وَيَغْفِرْلَكُمْ ذُنُوْبَكُمْ وَمَنْ يُّطِعِ اللّٰهَ وَ رَسُوْلَهُ فَقَدْ فَازَ فَوْزًا عَظِيْمًا ۝ (الاحزاب ٣٣:٧٠-٧١)

(فى شرح السنة عن ابن مسعود فى خطبة الحاجة من النكاح وغيره)

(1681/10) Abdullah ibn Mas'ud ﷺ related to us, saying that "The Messenger of Allah ﷺ taught us the following sermon for all important occasions like marriage:

'Praise be to Allah! Thee, alone, do we beg for help and forgiveness, and in Thee, alone, do we seek refuge from the mischief of the self,

i.e., the inordinate appetites. No one can lead him astray upon whom God bestows Guidance, and no one can make him rightly-guided from whom God withholds Guidance. I affirm that no one is worthy of worship and obedience save Allah, and Muhammad is His Slave and Messenger ﷺ.

Be careful of your duty towards Allah in whom you claim (your rights) of one another, and toward th wombs (that beare you). Lo! Allah has a watch over you. (Al Nisaa 4:1)

O You who believe! Fear Allah and speak words straight to the point, He will set right your deeds for you and will forgive your sins. And whosoever obeys Allah and His Messenger, he indeed has gained a mighty triumph. (Al Ahzab 33:70-71)

(Abu Dawood, Musnad Ahmad, Tirmizi, and Nasai)

Commentary: Whatever a bondman may be wanting to declare, by way of an affirmation of his loyalty and humbleness, is contained in the opeinig lines of this sermon while the Qur'anic verses given at the end are, wholly, sufficient for the bondsman's guidance and information.

The sermon is delivered before *Nikah*, or, as would say, the proceedings of marriage begin with it. Alas, it, too, has got reduced to a mere formality, otherwise it includes a complete code of conduct for the couple.

Mahr

As we have learnt from Sayyidah Ayshah's رضى الله عنها narrative, quoted in the last Chapter, the settlement of *Mahr*, i.e., dower or marriage-portion was in vogue, among the good families of the Arabs even in the Age of Ignorance, as a part of the matrimonial arragnement. It was, in other words, necessary for the bridegroom to agree upon the payment of a fixed amount of money to the bride before the performance of *Nikah*. The practice was, also, maintained by Islam.

The *Mahr* serves as a proof and indication of the fact that the man is desirous of marrying the woman he is going to wed, and is willing to offer *Mahr* as a gift to her, according to his means, or has bound himself to its payment at a future time.

The Holy Prophet ﷺ has not, definitely, set forth the amouunt of *Mahr*, as circumstances can vary from man to man. He had, however, fixed the *Mahr* of 500 dirhams,[1] or a little short of it, for his daughters, and similar, also, was the *Mahr* of most of his wives.

During the lifetime of the sacred Prophet ﷺ, a greater or lesser amount them 500 Dirhams was, also, settled upon as dower-money , and it was deemed necessary for Muslims to conform to the *Mahr* of his wives or daughters.

From the directions given in the Qur'an and the Traditions, it is clear that the settlement of *Mahr* on the bride is not an empty ritual or formality, but its payment is binding on the husband excepting that the wife, on her own account, forgoes it. As it is set forth in the Qur'an:

وَاٰتُوا النِّسَآءَ صَدُقٰتِهِنَّ نِحْلَةً (النساء ٤:٤)

And give that woman (you marry) their dower cheerfully as a free gift. (Al Nisaa 4:4)

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1. Dirham is said to be an unstamped piece of silver which was current in Arabia of those days as a coin. Later, it was altered into a round form and stamped. Its value is uncertain.

The Importance attached by the Holy Prophet ﷺ to *Mahr* can be imagined from the Traditions given below.

(١٦٨٢/١١) عَنْ مَيْمُوْنَ الْكُرْدِيّ عَنْ اَبِيْهِ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَيُّمَارَجُلٍ تَزَوَّجَ اِمْرَأَةً عَلٰى مَا قَلَّ مِنَ الْمَهْرِ اَوْكَثُرَ لَيْسَ فِيْ نَفْسِهٖ اَنْ يُّؤَدِّىَ اِلَيْهَا حَقَّهَا لَقِىَ اللهَ يَوْمَ الْقِيٰمَةِ وَهُوَزَانٍ.(رواه الطبرانى فى الاوسط والصغير)

(1682/11) Maimoon Kurdi relates, on the authority of his father, that the Messenger of Allah ﷺ said: "whoever weds a woman on a *Mahr*, whether big or small, and, in his heart, there is not the intention to pay it, will appear before the Lord, on the Day of Resurrection, as an adulterer (or fornicator)." (Tabarani)

Commentary: It tells that if a man is not sincere about the payment of *Mahr* from the very beginning and has agreed to it purely as a formality, his Nikha is faulty and incomplete, and he is such a sinner in the sight of God that he will be treated as an adulterer or fornicator on the Day of Requital.

Many other sayings of an identical nature have been quoted in *Kanzul 'Ummal* from authentic source-books. These contain a most severe warning for men who do not take *Mahr* seriously and agree to amounts the payment of which is beyond their means.

(١٦٨٣/١٢) عَنْ اَبِىْ سَلِمَةَ قَالَ سَأَلْتُ عَائِشَةَ كَمْ كَانَ صِدَاقُ النَّبِيِّ صَلَّ اللهُ عَلَيْهِ وَسَلَّمَ ؟ قَالَتْ كَانَ صِدَاقُهٗ لِاَزْوَاجِهٖ ثِنْتَىْ عَشْرَةَ اَوْقِيَةً وَنَشٌّ.

(رواه مسلم)

(1683/12) It is related by Abu Salmah ؓ "I enquired from Sayyidah Ayshah رضى الله عنها about the *Mahr* of the Messenger of Allah ﷺ. She replied that the *Mahr* of the Messenger of Allah ﷺ wives was 12½ *Auqiya*." (Abu Dawood and Nasai)

Commentary: An Auqiya is equal to 40 dirhams, and 12½ Auqiya will, thus, make 500 dirhams.

It needs be remembered that 500 dirhams were quite a substantial amount during those days, and about 50 goats could be purchased with them.

(١٦٨٤/١٣) عَنْ اُمِّ حَبِيْبَةَ اَنَّهَا كَانَتْ تَحْتَ عُبَيْدِاللهِ بْنِ جَحْشٍ فَمَاتَ

بِاَرْضِ الْحَبْشَةِ فَزَوَّجَهَا النَّجَاشِيُّ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ وَاَمْهَرَهَا عَنْهُ اَرْبَعَةَ اٰلَافِ دِرْهَمٍ وَّبَعَثَ بِهَا اِلٰى رَسُوْلِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ مَعَ شُرَحْبِيْلِ بْنِ حَسَنَةَ. (رواه ابو داؤد والنسائی)

(1684/13) It is related by Umm Habibah رضی اللہ عنہا, She relates that she was married to Ubaidullah ibn Hajsh (and had migraged with him to Abyssinia). (It was there that) her husband, Ubaidullah ibn Hajsh died, and Negus, (the King of Abyssinia) married her to the Messenger of Allah, and settled 5,000 dirhams as her *Mahr*, on behalf of the Holy Prophet ﷺ, and paid it to her from his own pocket. Negus, then sent her to the Prophet ﷺ in the company of Sharjeel ibn Hasana.

(Abu Dawood and Nissai)

Commentary: Umm Habibah رضی اللہ عنہا was the daughter of Abu Sufyan who, till the Victory of Makkah, was the leader of its Pagans and an Arch enemy of the Messenger of Allah ﷺ. Eight years after the Migration, at the time of the Victory of Makkah, Abu Sufyan embraced Islam, but his daughter had become a Muslim much earlier, and so had her husband, Ubaidullah ibn Jahash.

When the Muslims were persecuted Mercilessly in Makkah, some of them had, on the Prophet's ﷺ advice, migrated to Abyssinia. they included Umm Habiba and her husband. It so happened that, in Abyssinia, Abdullah ibn Jahash forsook Islam and adopted Christianity. He, also, drank excessively and died in that state. But Umm Habiba رضی اللہ عنہا remained steadfast in Faith. When the news of the death of Obaidullah ibn Jahash reached the Messenger of Allah ﷺ, he decided to marry Umm Habiba رضی اللہ عنہا in order to bring her solace and comfort, and, also, to show his appreciation of her resoluteness in the path of Islam. There were some other reasons, too, of importance to the Faith that called for it. The Holy Prophet ﷺ, then, sent a special messenger to Negus, requesting him to make the proposal of marriage, on his behalf, to Umm Habiba, and the Abyssinia Emperor had it done through his slave-girl, Abraha. The proposal was gladly accepted by Umm Habiba رضی اللہ عنہا who appointed a near relation from among the emigrant Muslims, named Khalid ibn Saeed El-Aasi, as her agent,

and, as it is stated in *Abu Dawood* and *Nasai*, Negus married her to Messenger of Allah ﷺ, and himself paid the *Mahr*. In the report quoted in *Abu Dawood*, the amount of *Mahr* is given as 4,000 dinars[1] which is more authentic, according to the authorities. In any case, the *Mahr* of Umm Habiba was highest among the wives of the Holy Prophet ﷺ, but it was settled by the Abyssinian ruler, and not by him, and, as the Traditions have it, it was, also, paid by the former.

The incident, it appears, took place in the fifth year of migration to Abyssinia.

It may be noted that Negus was the title of the Emperor of Abyssinia while the real name of the particular ruler, referred to in the above Tradition, was Asmaha. He had learnt about the teachings of the Prophet ﷺ through the Muslim emigrants and embraced Islam. He died in the 8th or the 9th A.H.,. The Holy Prophet ﷺ was informed of his death in Divine Revelation who, then, told it to the Companions ﷺ and held his funeral service in absentia.

Felicitations And Supplication

Various forms of felicitations, on the occasion of marriage, are current in the world. The Holy Prophet ﷺ, however, has taught a formula which is more in the nature of a supplication for the happiness nd well-being of the couple.

(١٦٨٥/١٤) عَنْ اَبِىْ هُرَيْرَةَ قَالَ اَنَّ النَّبِىَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ كَانَ اِذَا رَفَّأَ الْاِنْسَانَ اِذَا تَزَوَّجَ قَالَ بَارَكَ اللّٰهُ لَكَ وَ بَارَكَ عَلَيْكُمَا وَ جَمَعَ بَيْنَكُمَا فِىْ خَيْرٍ. (رواه احمد والترمذى و ابو داؤد و ابن ماجه)

(1685/14) Abu Hurayrah ﷺ relates, saying that when the Prophet ﷺ congratulated anyone on his marriage, he would say: "May God bless you, and bestow His favour on you, and keep you united for ever in goodness and welfare." .

(Musnad Ahmad, Tirmizi, Abu Dawood and Ibn Majah)

(١٦٨٦/١٥) عَنْ عَبْدِاللّٰهِ بْنِ عَمْرِو بْنِ الْعَاصِ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ اِذَا تَزَوَّجَ اَحَدُ كُمْ اِمْرَأَةً اَوِشْتَرٰى خَادِمًا فَلْيَقُلْ اَللّٰهُمَّ اِنِّىْ اَسْاَلُكَ

خَيْرَهَا وَخَيْرَ مَا جَبَلْتَهَا عَلَيْهِ وَ اَعُوْذُ بِکَ مِنْ شَرِّهَا وَشَرِّ مَا جَبَلْتَهَا عَلَيْهِ.

(رواه ابو داؤد)

(1686/15) Abdullah ibn Amr ibn al-Aas ﷺ related to us, saying that the Messenger of Allah ﷺ said: "Whoever marries a woman or buys a slave or slave-girl should make the following supplication: Oh Allah! I beseech Thee for the goodness and virtue Thou hast blessed her (or him) with, and embedded in her (or his) nature. Favour me with it. And I beg Thee refuge from her (or his) wickedness, and the vice and viciousness in her (or his) nature. Protect me from it." (Abu Dawood)

The Simpler a Marriage, The More Blessed it is

(١٦٨٧/١٦) عَنْ عَائِشَةَ قَالَتْ قَالَ النَّبِىُّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اَعْظَمُ النِّكَاحِ بَرَكَةً اَيْسَرُهُ مُؤْنَةً.

(رواه البيهقى فى شعب الايمان)

(1687/16) It is related by Sayyidah Ayshah رضى الله عنها that the Messenger of Allah ﷺ said: "That marraige is most blessed which is the least burdensome." (Baihaqi)

Commentary: It, obviously, is not a mere statement of fact, but, also, an exhortation to the *Ummah* to keep the marriages as simple as possible. In that casse, the marraige will prove a blessing, and not a burden.

Dowry of Fatima رضى الله عنها

(١٦٨٨/١٧) عَنْ عَلِيٍّ قَالَ جَهَّزَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَاطِمَةَ فِىْ خَمِيْلٍ وَّ قِرْبَةٍ وَّوِسَادَةٍ حَشْوُهَا اِذْخَرٌ.

(رواه النسائى)

(1688/17) Sayyidina Ali ﷺ narrates "Messenger of Allah ﷺ had given the following articles as dowry to his daughter, Ftimah رضى الله عنها. A bordered head covering, a small water-bag of leather, and a pillow stuffed with the grass, Azkhar." (Nasai)

Commentary: This report is commonly believed, in our country, to men that the Messenger of Allah ﷺ had given these articles to his duaghter, Saiyyidah Fatimah رضى الله عنها, as dowry on the occasion of her marriage, while, in fact, the practice of giving something to the bride, on her marriage, did not exist among the Arabs. They had no idea of it, so much so that a word like 'dowry'

did not exist in their language, nor is it mentioned in any of the reports of the marriages of that time. The Holy Prophet ﷺ had arranged for these things as Sayyidina Ali's ؓ guardian, and at his request, and with his money, as he did not possess the essential household goods at the time of his marriage with Sayyidah Fatimah رضی اللہ عنہا. Full details of the event are contained in the Traditions.

Walima

To be married to a woman of one's liking a great favour of the Lord, and a matter of rejoicing. The marriage-feast, commonly known as *Walima*, is an outward expression of the feelings of gratitude and plesure. Through it, it is further, made known from the side of the bridegroom and his family that they are happy over the alliance and regard it as a Divine blessings which will, of course, be a source of great satisfaction to the bride and her people and add to mutual attachment and goodwill.

(۱۶۸۹/۱۸) عَنْ اَنَسٍ اَنَّ النَّبِیَّ صَلَّی اللّٰہُ عَلَیْہِ وَسَلَّمَ رَاٰی عَلٰی عَبْدِالرَّحْمٰنِ بْنِ عَوْفٍ اَثَرَ صُفْرَةٍ فَقَالَ مَاھٰذَا؟ قَالَ تَزَوَّجْتُ اِمْرَأَةً عَلٰی وَزْنِ نَوَاةٍ مِنْ ذَھَبٍ قَالَ بَارَکَ اللّٰہُ لَکَ اَوْلِمْ وَلَوْ بِشَاةٍ. (رواہ البخاری و مسلم)

(1689/18) Sayyidina Anas ؓ Narrates "(once), on noticing a trace of the yellow colour on Abdul Rahman ibn 'Awf ؓ, i.e., on his dress or body, the Messenger of Allah ﷺ enquired from him about it. Abdul Rahman ibn 'Awf ؓ replied 'I have married a woman for gold of the wieght of a date-stone, i.e., as *Mahr*. 'God bless you,' observed the Prophet ﷺ. 'Give the feast of *Walima* even if you have to slaughter a whole goat (for it).'"

(Bukhari and Muslim)

Commentary: What the Messenger of Allah ﷺ meant, probably, was that Sayyidina Abdul Rahman ibn 'Awf ؓ should spend liberally on the feast to celebrate his marriage.

It, further, shows that the training and instruction the holy Companions ؓ had received at the hands of the Holy Prophet ﷺ had cast them in such a mould that they did not give Prophet ﷺ the trouble of attending their marriages. They did not even inform him.

Thus, we find that even Abdul Rahman ibn 'Awf ﷺ who was among the chosen Companions ﷺ and belonged to the group of the ten most pious Companions ﷺ who were honoured with the title of *Ashra Mobashshira*, at the time of the Truce of Hudaibiyah, got married and the sacred Prophet ﷺ knew nothing of it.

The trace of yellowness on the clothes of Syyidina Abdul Rahman ibn 'Awf ﷺ, as mentioned in the above Tradition, can, perhaps, be explained by the fact that, in those days, the brides used to wear garments dyed in saffrorn etc., and its effects were , also, sometimes, felt on the dress or body of the bridegroom.

(١٩/١٦٩٠) عَنْ اَنَسٍ قَالَ مَا اَوْلَمَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلٰى اَحَدٍ مِنْ نِسَائِهٖ مَا اَوْلَمَ عَلٰى زَيْنَبَ اَوْلَمَ بِشَاةٍ. (رواه البخارى و مسلم)

(1690/19) Sayyidina Anas ﷺ related to us, saying "the Messenger of Allah ﷺ did not give a *Walima* on his marriage with.any of his wives on the scale on which he gave the *Walima* on his marriage with Zainab bint Jahash رضى الله عنها.He gave the *Walima* of a whole goat. (The entire meat of a goat was used in the feast)"

Commentary: It shows that the feasts the Holy Prophet ﷺ gave on his other marriages were on a smaller scale. As it is stated, for instance, in Sahih Bukhari, on the authority of Safia bint Sheba, only two seers of barely were used in the *Walima* feasts of some of his marriages and, again, on the authoirty of Sayyidina Anas ﷺ, that when the Prophet ﷺ married Sayyidah Safia رضى الله عنها there was neither meat nor bread in the feast, but only some dates, cheese and butter. From it, we learn that not even a regular meal is necesary for *Walima*. Whatever eatables one can afford should be served to the guests. How sad it is that, like dowry, we have made *Walima*, too, a heavy obligation.

Invitation of *Walima* Should be Accepted

(٢٠/١٦٩١) عَنْ عَبْدِاللهِ بْنِ عُمَرَ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ اِذَا دُعِيَ اَحَدُكُمْ اِلَى الْوَلِيْمَةِ فَلْيَاتِهَا. (رواه البخارى ومسلم)

(1691/20) It is related by Abdullah ibn Umar ﷺ that the Messenger of Allah ﷺ said: "When anyone of you is invited to

the feast of the *Walima*, he should accept the invitation.
(Bukhari and Muslim)

Commentary: The marriage feasts were held in the correct way when the holy Prophet ﷺ had made this observation, and it is with regard to such feasts that the commandments stand. It has nothing to do with the entertainments that are openly wasteful and the eye is on display. The Holy Prophet ﷺ, in fact, has advised us to stay away from them.

Whose Invitation Should be Declined?

(١٦٩٢/٢١) عَنْ اِبْنِ عَبَّاسٍ اَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهٰى عَنْ طُعَامِ الْمُتَبَارِئِيْنَ اَنْ يُّؤْكَلَ. (رواه ابو داؤد)

(1692/21) It is related by Abdullah ibn Abbas ؓ that "the Messenger of Allah ﷺ forbade from eating the food of the people who try to excel one another." (Abu Dawood)

Commentary: What it tells is that the invitations of persons who throw lavish parties, dinners etc., to impress others with their wealth or superiority should not be accepted.

(١٦٩٣/٢٢) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ شَرُّ الطَّعَامِ طَعَامُ الْوَلِيْمَةِ يُدْعٰى لَهَا الْاَغْنِيَاءُ وَيُتْرَكُ الْفُقَرَاءُ وَمَنْ تَرَكَ الدَّعْوَةَ فَقَدْ عَصَى اللهَ وَ رَسُوْلَهٗ. (رواه البخارى ومسلم)

(1694/23) It is related by Abu Hurayrah ؓ that the Messenger of Allah ﷺ said: "The food of the *Walima* is allowed to which only the rich are invited and the poor are ignored; and whoever did not accept the invitation (without a cogent reason) acted against the Commandment of Allah and His Messenger."
(Bukahri and Muslim)

Commentary: The first part of the above Tradition stresses that whoever gives a marriage feast should, also, invite the poor. The food served at a *Walima* to which only the well-to-do or important persons are invited is not worth eating. It, naturally, applies to all the feasts, and not merely to *Walima*.

What the second part seeks to convey is that unless there is a valid excuse, the invitation of a Muslim brother to a feast ought to

be accepted. It generates brotherly feelings while the declining of an invitation can stir up unfriendly sentiments.

Prayer at The Time of Couplation

(١٦٩٤/٢٣) عَنْ اِبْنِ عَبَّاسٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَوْ اَنَّ اَحَدَكُمْ اِذَا اَرَادَ اَنْ يَّاتِيَ اَهْلَهُ قَالَ بِسْمِ اللهِ اَللّٰهُمَّ جَنِّبْنَا الشَّيْطَانَ وَ جَنِّبِ الشَّيْطَانَ مَا رَزَقْتَنَا فَاِنَّهُ اِنْ يُّقَدَّرْ بَيْنَهُمَا وَلَدٌ فِيْ ذَالِكَ لَمْ يَضُرُّهُ شَيْطَانٌ اَبَدًا

(رواه البخاری و مسلم)

(1694/23) It is related by Ibn Abbas that the Messengr of Allah said: "When anyone of you makes this supplication to God while going to his wife (for making love), and a child is destined to him from that couplation, the Devil will not be able to harm the child and it will remain safe forever from his mischeif:

بِسْمِ اللهِ اَللّٰهُمَّ جَنِّبْنَا الشَّيْطَانَ وَ جَنِّبِ الشَّيْطَانَ مَا رَزَقْتَنَا

'In the Name of Allah! O God! Save me from the mischief of the Devil, and the progeny You may bestow upon me."

(Bukhari and Muslim)

Commentary: As Sheikh Abdul Haq Mohaddith Dehlavi has observed in *Ash'iatul Lam'aat*, if a supplication like it is not made at the time of copulation and only the sexual urge is satisfied like the animals, the child that may born as a result of it will not be safe from the evil influence of the Devil. The Sheikh adds that "it is the main reason why the morals of the present generation are not good."

Copulation Must be Kept as A Secret From Others

(١٦٩٥/٢٤) عَنْ اَبِيْ سَعِيْدٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ مِنْ اَشَرِّ النَّاسِ عِنْدَاللهِ مَنْزَلَةً يَّوْمَ الْقِيٰمَةِ اَلرَّجُلُ يُفْضِيْ اِلٰى اِمْرَأَتِهٖ وَتُفْضِيْ اِلَيْهِ ثُمَّ يَنْشُرُ سِرَّهَا.

(رواه مسلم)

(1695/24) It is related by Abu Saeed Khudri that the Messenger of Allah said: "On the Day of Resurrection, he will be of the worst degree in the eyes of Allah in the greatest degree who divulges the secret after having sex with is wife."

(Muslim)

The Curse of God is on The Unnatural Act

(١٦٩٦/٢٥) عَنْ اَبِیْ هُرَیْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ مَلْعُوْنٌ مَنْ اَتٰی اِمْرَاَةً فِیْ دُبُرِهَا. (رواه احمد وابو داؤد)

(1696/25) Abu Hurayrah ﷺ relates that the Mesenger of Allah ﷺ said: "The man who performs the unnatural act with his wife is accursed." (Musnad Ahmad and Abu Dawood)

(١٦٩٧/٢٦) عَنْ اِبْنِ عَبَّاسٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ لَا یَنْظُرُ اللهُ اِلٰی رَجُلٍ اَتٰی رَجُلًا اَوْ اِمْرَاَةً فِی الدُّبُرِ. (رواه الترمذی)

(1697/26) It is related by Abdullah ibn Abbas ﷺ that the Messenger of Allah ﷺ said: "God will not even look at him who commits sodomy with a man or woman." (Tirmizi)

Commentary: Even the animals do not satisfy their sexual desire in the unnatural way. The human beings who ae guilty of it, thus, are even worse than the quadrupeds, and offer a living proof of the Correctness of the Qur'anic verse:

ثُمَّ رَدَدْنَاهُ اَسْفَلَ سَافِلِیْنَ (التین ٩٥:٥)

"Then We reduced him to the lowest of the low. (Al Tin 95:5)

It will be known only on the Day of Final Judgement what a grievous misfortune is to remain deprived of even a glance from the Almighty.

Restrained Ejaculation

Sometimes, for a special reason, such as, the health of the wife or the earlier children, a man does not want his wife to become pregnant. For it, he practices *'Azl* (restrain ejaculation), i.e., separates himself from the wife at the time of ejaculation. It was done during the days of the Holy Prophet ﷺ as well. the reply the Prophet ﷺ gave when enquired is not forbidden, it is also not good. Most of the Jurists have drawn the same conclusion from the Traditions pertaining to it, and the basic law, according to them, it that if a man wants to pracitce *'Azl* owing to his peculiar circumstances, he can do so, and it will not amount to sin. But the way in which the campaigns of family planning or population

control are being launched now a days, in certain countries, at the national level, and the chief aim of which is to put a check to limit the human race mainly on the ground that if the population goes on increasing as it is, it will not be possible to feed the people or improve the standard of living is wholly un-Islamic. In truth, it is not far different, in its spirit, from the custom of killing the children in their infancy that was prevalent among the Arabs in the Age of Ignorance. It is to such people that these verses are addressed in the Qur'an:

لَا تَقْتُلُوْٓا اَوْلَادَكُمْ مِنْ اِمْلَاقٍ ط نَّحْنُ نَرْزُقُكُمْ وَ اِيَّاهُمْ ٥ (الانعام ٦:١٥١)

Slay not your children because of penury. We provide you and for them. (Al-Anam 6:151)

After this brief introduction, the Traditions.

(١٦٩٨/٢٧) عَنْ جَابِرٍ قَالَ كُنَّا نَعْزِلُ وَالْقُرْآنُ يَنْزِلُ. (رواه البخاری ومسلم)
وَزَادَ مُسْلِمٌ فَبَلَغَ ذَالِكَ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَلَمْ يَنْهَنَا.

(1698/27) It is narrated by Sayyidina Jabir ﷺ "(during the life-time of the Messenger of Allah ﷺ), when the revelation of the Qur'an was continuing, we, i.e., some of the Companions ﷺ used to practise *'Azl*, (and no verse of the Qur'an had been revealed forbidding it)." In another version of it, quoted in Sahih Muslim, it is added that "it was in the knowledge of the Prophet ﷺ, but he did not prohibit." (Bukhari and Muslim)

(١٦٩٩/٢٨) عَنْ اَبِىْ سَعِيْدٍ قَالَ سُئِلَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الْعَزْلِ فَقَالَ مَا مِنْ كُلِّ الْمَاءِ يَكُوْنُ الْوَلَدُ وَ اِذَا اَرَادَ اللهُ خَلْقَ شَيْئٍ لَمْ يَمْنَعْهُ شَيْئٌ. (رواه مسلم)

(1699/28) Abu Saeed Khudri ﷺ relates, saying "(once) the Messenger of Allah ﷺ was asked about *'Azl* upon which he said: 'It is not that one conceives with every seminal discharge. (It is only by Allah's will that a woman conceives and gives birth to a child). And when Allah decides upon the creation of anything, no one can stop it." (Bukhari)

Commnetary: It shows that it is not correct to suppose that the birth of a child can be prevented by *'Azl*. The birth will take place,

in any case, if it is willed by God. The next Tradition is more clear to it

(١٧٠٠/٢٩) عَنْ جَابِرٍ اَنَّ رَجُلًا اَتٰى رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ اِنَّ لِىْ جَارِيَةً هِىَ خَادِمَتُنَا وَاَنَا اَطُوْفُ عَلَيْهَا وَاَكْرَهُ اَنْ تَحْمِلَ فَقَالَ اِعْزِلْ عَنْهَا اِنْ شِئْتَ فَاِنَّهُ سَيَاتِيْهَا مَا قُدِّرَ لَهَا فَلَبِثَ الرَّجُلُ ثُمَّ اَتَاهُ فَقَالَ اِنَّ الْجَارِيَةَ قَدْ حَبِلَتْ فَقَالَ قَدْ اَخْبَرْتُكَ اِنَّهُ سَيَاتِيْهَا مَا قُدِّرَلَهَا. (رواه مسلم)

(1700/29) It is related by Jabir ﵁ "(once) a man came to the Messenger of Allah ﷺ and said: 'I have a slave-girl who looks after the domestic work at my house, and I, also, make love to her, but I do not want her to become pregnant.' (Perhaps, he wanted to know if he could practise *'Azl* with her). The Messenger of Allah ﷺ observed: 'You can practise *'Azl* if you like, but it is certain that what has been destined for the slave-girl will happen.' The man, again, came after some time and said that the slave-girl had conceived. The Messenger of Allah ﷺ replied: 'I had told you that what had been ordained for her shall come to pass'." (Muslim)

Commentary: In the two aforementioned Traditions, it is emphasised that if it is decided by God about anything that it will come into existance, it shall take place and nothing can stop it. As for example, a man practises *'Azl* to kep his wife from conceiving, but if it is decreed by the Lord, at any time, that she gave birth to a child, either the husband will not be able to get away from her quickly enough or some discharge secretion will take place before the ejaculation, without his knowing it, and she will become pregnant.

Permission to Have Four Wives

Whether by temperament or circumstances, there are men who are likely to go astray and seek sexual gratification in a sinful manner if they are not allowed to have more than one wife at the same time. That is why, in the Canonic Laws in which adultery or fornication is strictly forbidden, it has, generally, been permitted to have more wives than one.

In the *Shari'ah* brought by the sacred Prophet ﷺ, fornication,

specially by a married person is such a great sin that it is punishable with death by stoning. If in such a *Shari'ah*, polygamy was not allowed, in any event, it would, indeed, have ben extremely cruel and unjust. In the Westren countries in which polygamy is legally forbidden, no eyeborws are rasied on illicit sexual intercourse and the question of its legitimacy or otherwise does not arise. In order to put an end to illicit sex, the Islamic *Shari'ah*, on the one hand, prescribed a most severe punishment, and, on the other, permitted a man to have upto four wives at the same time, subject, of course, to appropriate conditions.

Like many other communities, among the Arabs, too, there was no limit to the number of wives before the advent of Islam. some men used to have ten, and even more wives at a time. Keeping in view the different circumstances of different people, the Islamic *Shari'ah* has fixed the limit at four.

(١٧٠١/٣٠)عَنْ اِبْنِ عُمَرَ اِنَّ غَيْلَانَ بْنِ سَلْمَةَ الثَّقَفِيَّ اَسْلَمَ وَلَهُ عَشْرُ نِسْوَةٍ فِيْ الْجَاهِلِيَّةِ فَاَسْلَمْنَ مَعَهُ فَقَالَ النَّبِيُّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اَمْسِکْ اَرْبَعًا وَفَارِقْ سَائِرَ هُنَّ (رواه احمد)

(1701/30) Sayyidina Abdullah ibn Umar ﷺ Narrates "When Ghailan ibn Salmah Thaqafi embraced Islam, he had ten wives who had, also, accepted Islam with him. The Messenger of Allah ﷺ, thereupon, told him to keep four and divorce the rest."
(Musnad Ahmad)

Justice And Equity in Treatment Towards Wives

A man who has more than one wife must deal fairly with them, and make no difference in the treatment of one wife over another. In *Sura-i-Nissa*, in which permission has been given to marry upto four women, it is candidly stated that:

> If you fear that you cannot do justice (to so many wives), then one (only).

For husbands who do not treat their wives with justice there is the warning of a heavy penalty in the Hereafter. The inclination of the heart is, of course, different over which a man has little control, but where the moral and material rights of the wives are concerned,

no discrimination should be shown.

(١٧٠٢/٣١) عَنْ اَبِىْ هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ اِذَا كَانَتْ عِنْدَالرَّجُلِ اِمْرَأَتَانِ فَلَمْ يَعْدِلْ بَيْنَهُمَا جَاءَ يَوْمَ الْقِيٰمَةِ وَشِقُّهُ سَاقِطٌ.

(رواه الترمذى و ابو داؤد والنسائى و ابن ماجه والدارمى)

(1702/31) It is related by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "Whosoever has two, (or more), wives, and does not treat them with justice and fairness, he will appear on the Last Day in such a condition that one side of his body would have missing. (Tirmizi, Abu Dawood, Nasai, Ibn Majah and Daarmi)

Commnetary: It offers another example of similarity between the misdeeds of this world and the punishment, in the Hereafter. A man, it tells, who has more than one wife and discriminates among them in behaviour and treatment will be seen by everyone, on the Day of Resurrection, with one side of his body missing.

(١٧٠٣/٣٢) عَنْ عَائِشَةَ اَنَّ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ كَانَ يُقْسِمُ بَيْنَ نِسَائِهٖ فَيَعْدِلُ وَيَقُوْلُ اَللّٰهُمَّ هٰذَا قَسْمِىْ فِيْمَا اَمْلِكُ فَلَا تَلُمْنِىْ فِيْمَا تَمْلِكُ وَلَا اَمْلِكُ.

(رواه الترمذى و ابو داؤد و النسائى و ابن ماجة والدارمى)

(1703/32) Sayyidah Ayshah رضى الله عنها Narrated "the Messenger of Allah ﷺ used to live with his wives in turns, and treat them with full justice. In adition to it, he would supplicate:

اَللّٰهُمَّ هٰذَا قَسْمِىْ فِيْمَا اَمْلِكُ فَلَا تَلُمْنِىْ فِيْمَا تَمْلِكُ وَلَا اَمْلِكُ

"O my God! This is my behaviour in things and doings over which I have control. Call me, therefore, not to account for the thing (of the heart) which is in You power, not mine."

(Tirmizi, Abu Dawood, Nasai, Ibn Majah and Daarami)

Commentary: It shows that the Prophet ﷺ maintained a complete equality among his wives as far as practical behaviour and standard of living were concerned. He treated all of them alike. But the attachment of the heart is something which cannot be ordered. It could not be the same with each wife. Hence, the Prophet ﷺ used to beseech the Lord to forgive him if there was any difference in it for love and inclination did not lie in his power; it was in the Hands of Allah.

DIVORCE AND PERIOD OF WAITING

The main object of marriage is that, by entering into it, people led a clean and virtuous life, and just as they were someone's children, they, too, produced children, and the children were a source of joy to them and a means to the attainment of Paradise in Hereafter.

For the realisation of these ends, it is essential that relations between man and wife were pleasent and based on love and understanding. This, is a nutshell, is the substance of the teachings of the Holy Prophet ﷺ relating to the conduct and behaviour between husband and wife. Yet, sometimes, circumstances arise in which it becomes extremely difficult to live together. The Prophet's ﷺ advice, even then, is that they should try their utmost tolerate with each other, and resolve their differences, through mutual concession and compromise. Divorce or *Talaq*, too, has, however, been permitted as a last resort. It, evidently, would have been most unjust if the breaking up of a marriage was not allowed in any case, and however miserable the life of a couple became, it was legally compelled to remain joined in wedlock till death.

Detailed guidance has, hence, been furnished on the subject of divorce, the first thing to remember, as a matter of principle, being that such a development is highly displeasing to God, and, therefore, it should be avoided as far as possible. Neither the husband nor the wife should act in a hurry. The step is to be taken only when no choice is left, in the same way as, for example, the amputation of a limb is agreed to when no other course is open.

The method prescribed for divorce is that the husband should give only one *Raj'ee Talaq*[1] at a time when the wife is in a state of cleanliness, i.e., she is not having her menses so that it remained

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❶. Meaning a 'reversible' divorce ; a divorce that can be taken back within the period of *'Iddah*.

open to the husband to retrace his steps and take back the divorce within the period of *'Iddah*[1]. If, however, the husband cannot make up his mind about returning to his wife and restoring her to the former position, he should allow the period of *Iddah* to pass after which though the withdrawal of the divorce will not be possible, they can be joined, again, in wedlock by mutual consent.

The pronouncement of three *Talaqs*[2] simultaneously is extremely sinful, but to do so at three different times, too, has been viewed with strong disfavour, and the punishment laid down on it, here in this world, is that the husband will not be allowed to re-marry his divorced wife until she is married to another man and full conjugal relations have been established between them, and after it, she has either become a widow owing to the death of her second husband or has been divorced by her husband. It is only then that he can marry her again on the completion of *'Iddah*. This severe restriction, in fact, is the penalty imposed on the husband for pronouncing three *Talaqs*.

Most Disagreeable Act

(١٧٠٤/٣٣) عَنِ ابْنِ عُمَرَ اَنَّ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اَبْغَضُ الْحَلَالِ اِلَى اللّٰهِ الطَّلَاقُ (رواه ابو داؤد)

(1704/33) It is related by Abdullah ibn Umar ﷺ that the Prophet ﷺ said: "Among the lawful and legitimate things, most disagreeable to God is divorce." (Abu Dawood)

(١٧٠٥/٣٤) عَنْ مَعَاذِ بْنِ جَبَلٍ قَالَ قَالَ لِيْ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَا مُعَاذُ مَا خَلَقَ اللّٰهُ شَيْأً عَلٰى وَجْهِ الْاَرْضِ اَحَبَّ اِلَيْهِ مِنَ الْعِتَاقِ وَلَا خَلَقَ اللّٰهُ شَيْأً عَلٰى وَجْهِ الْاَرْضِ اَبْغَضَ اِلَيْهِ مِنَ الطَّلَاقِ. (رواه الدارقطني)

(1705/34) It is related by Mu'az ibn Jabal ﷺ that the Messenger of Allah ﷺ said: "O Mu'az , God has not created anything on the face of the earth wich may be more pleasing to Him than the

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1. The period of waiting for a widowed or divorced woman before the expiry of which she cannot re-marry. for a divorced woman, *Iddah* extends up to the time that three cyclic periods of menstruation are completed, and if the woman be pregnant, until she is gives birth of the child.

2. Plural of *Talaq*, meaning 'divorce'.

setting free of slaves and slave-girls, and he has not created anything on the face of the earth which may be more displeasing to Him than divorce." (Daar Qutni)

(١٧٠٦/٣٥)عَنْ ثَوْبَانَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَيُّمَا اِمْرَأَةٍ سَأَلَتْ زَوْجَهَا طَلَاقًا فِيْ غَيْرِ مَا بَأْسٍ فَحَرَامٌ عَلَيْهِ رَائِحَةُ الْجَنَّةِ.

(رواه احمد والترمذی و ابو داؤد و ابن ماجة والدارمی)

(1706/35) It is related by Thauban ﷺ that the Messenger of Allah ﷺ said: "The sweet smell of Paradise is forbidden to the woman who demands divorce from her husband except on account of severe hardship."

(Musnad Ahmad, Tirmizi, Abu Dawood, Ibn Majah and Daarami)

Commentary: The admonition, evidently, does not apply to the woman for whom it may have become really intolerable to live with her husband, but if she seeks divorce without the things having gone that far, it will be highly sinful on her part.

(١٧٠٧/٣٦)عَنْ اَبِیْ مُوْسٰی الْاَشْعَرِیْ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَا تُطَلِّقُوْا النِّسَاءَ اِلَّا مِنْ رِيْبَةٍ اِنَّ اللهَ تَعَالٰی لَا يُحِبُّ الذَّوَّاقِيْنَ وَالذَّوَّاقَاتِ.

(رواہ البزار و الطبرانی فی الکبیر والاوسط)

(1707/36) Abu Moosa Ash'ari ﷺ related to us, that the Messenger of Allah ﷺ said: "Women should not be divorced unless they are of a doubtful character. God does not like men who are addict to pleasure and enjoyment."

(Musnad Bazzar, and Tabarani)

Commentary: What the last part of the above Tradition denotes is that men who divorce their wives simply to marry again and derive satisfaction from a new wife are cxcluded from thr love and good pleasure of the Lord. The same is the case with women who obtain divorce from their husbands so that they can have pleasure with a new man.

Time And Procedure

(١٧٠٨/٣٧) عَنْ عَبْدِاللهِ بْنِ عُمَرَ اَنَّهُ طَلَّقَ إِمْرَأَةً لَّهُ وَهِیَ حَائِضٌ فَذَكَرَ عُمَرُ لِرَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَتَغَيَّظَ فِيْهِ رَسُوْلُ اللهِ عَلَيْهِ وَسَلَّمَ ثُمَّ قَالَ لِيُرَا

جعْهَا ثُمَّ يُمْسِكُهَا حَتّٰى تَطْهُرَ ثُمَّ تَحِيْضَ فَتَطْهُرَ فَاِنْ بَدَالَهٗ اَنْ يُّطَلِّقَهَا فَلْيُطَلِّقهَا
طَاهِرًا قَبْلَ اَنْ يَمْشِهَا فَتِلْكَ الْعِدَّة الَّتِیْ اَمَرَاللّٰهُ اَنْ تُطَلَّقَ لَهَا النِّسَآءُ.

(رواه البخاری و مسلم)

(1708/37) Sayyidina Abdullah ibn Umar ﷺ Narrates that he divorced his wife in the condition that she was having her menses, and his father mentioned it to the Messenger of Allah ﷺ, upon which he was very angry and said: 'Tell Abdullah to take back the divorce and keep the wife with him in marriage unitl the menstruation period ends and she comes into the period of cleanliness, and, then, the period of cleanliness ends, and she, again, has her menses, and returns, once more, to the period of cleanliness. Should he still want to divorce her, he might have a sexual intercourse with her." The Prophet of God ﷺ added: "This is the *Iddah* laid down in the Qur'an:

فَطَلِّقُوْهُنَّ لِعِدَّتِهِنَّ (الطلاق ٦٥:١)

"Divorce them at their prescribed periods." (Al Talaq 65:1)

(Bukhari and Muslim)

Commentary: It tells that it is forbidden to divorce a woman while she is having her menses, and whoever does so by mistake should receive back his wife after the divorce. In case the husband remained of the same mind, the divorce ought to be given at the time of purification after menstruation provided that he had not made love to her during it.

The idea behind the arrangement is that during menstruation , a woman is not fit for sexual intercourse while, in the state of purification, it is quite possible that the husband felt inclined towards her and the intention to divorce disappeared from his heart which, in any case, is more pleasing to the Lord and Prophet ﷺ.

In the incident related above, Abdullah ibn Umar ﷺ was told by the holy Prophet ﷺ to take back the divorce he had given and allow a period of purification to pass, and if, even then, he was adamant, he could divorce his wife during the second period of purification, the idea being that when the two would live together during the whole of the intervening period of purification, the relations might improve and the divorce avoided. But if it did not turn out that way and the divorce was invetiable, the Prophet ﷺ

advised Abdullah ibn Umar ﷺ to do so during the second period of purification, before cohibition. This last condition, too, was based on the logic that the sexual urge was stronger at the end of the menses, and it might, also, offer a hindrance to divorce.

It, further, shows that though divorce is forbidden during menses and is a grave sin, it does take place if given. Were it otherwsie, there would have been no need for restitution, and instead of telling Abdullah ibn Umar ﷺ to receive back his wife, the holy Prophet ﷺ would have said that the divorce was void.

To Give Three Divorces at The Same Time is A Great Sin

(١٧٠٩/٣٨) عَنْ مَحْمُوْدِ بْنِ لَبِيْدٍ قَالَ أُخْبِرَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ رَجُلٍ طَلَّقَ اِمْرَأَتَهُ ثَلاثَ تَطْلِيْقَاتٍ جَمِيْعًا فَقَامَ غَضْبَانَ ثُمَّ قَالَ اَ يُلْعَبُ بِكِتَابِ اللهِ عَزَّ وَجَلَّ وَاَنَا بَيْنَ اَظْهُرِكُمْ حَتّٰى قَامَ رَجُلٌ فَقَالَ يَا رَسُوْلَ اللهِ آلَا اَقْتُلُهُ. (رواه النسائی)

(1709/38) Sayyidina Mahmood ibn Labeed ﷺ narrated "(once), as the Messenger of Allah ﷺ came to know about a person that he had divorced his wife thrice, at the same time, he rose up in great anger and said: 'Will the book of God be mocked with even when I am present in Your midst? (To divorce thrice, at the same time, is to make a mockery of the Qur'an in which the law and method of divorce are distinctly laid down. Will the Book of God be reduced to a plaything in my lifetime)?' (As the Messenger of Allah ﷺ spoke these words in extreme anger), a Companion stood up and said: 'O Messenger of Allah ﷺ ! May I better not kill that man who has acted like that.'" (Nasai)

Commentary: It shows that the giving of three divorce simultaneously is a most serious transgression of the law of God. But as a divorce given during the monthly course takes effect in spite of being highly sinful and the woman gets divorced as a result of it, the divorce given thrice, at the same time, too, takes place in the opinion of an overwhelming majority of Jusists.

The giving of three divorces, at the same time, has been condemned as playing with the Book of God, probably, on the

basis of the following verses:

اَلطَّلَاقُ مَرَّتَانِ O فَاِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهٗ مِنْۢ بَعْدُ حَتّٰى تَنْكِحَ زَوْجًا غَيْرَهٗ
(البقره ۲:۲۲۹،۲۳۰)

Divorce is twice, then either a retention with honour or a rebase with kindness. So if he divorces her, then she shall not be lawful to him. Therefore, until she marries another husband

(Al Baqarah 2:229/230)

From these verses, it is evident that if a man wanted to divorce his wife more than once, he should not do so at the same time, but at different times, with suitable intervals.

The narrative does not tell what reply the Prophet ﷺ gave to the Companion ؓ who had offered to kill the transgressor. Perhaps, he kept quiet, and, thereby, indeed that man had committed a grievous sin, it did not amount to an offence punishable with death.

The Consequence of Three Divorces and The Injunction of The Shar'iah

(۱۷۱۰/۳۹) عَنْ عَائِشَةَ قَالَتْ جَاءَ تْ اِمْرَأَةُ رِفَاعَةَ الْقُرَظِيِّ اِلٰى رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ كُنْتُ عِنْدَ رِفَاعَةَ فَطَلَّقَنِيْ فَبَتَّ طَلَاقِيْ فَتزَوَّجْتُ بَعْدَهٗ عَبْدَالرَّحْمٰنِ بْنِ الزَّبِيْرَ وَمَا مَعَهٗ اِلَّا مِثْلَ هُدْبَةِ الثَّوْبِ، فَقَالَ اَتُرِيْدِيْنَ اَنْ تَرْجِعِيْ اِلٰى رِفَاعَةَ؟ قَالَتْ نَعَمْ قَالَ لَا حَتّٰى تَذُوْقِيْ عُسَيْلَتَهٗ وَيَذُوْقَ عُسَيْلَتَكِ.
(رواه البخاری و مسلم)

(1710/39) Sayyidah Ayshah رضی الله عنها relates, saying that "Once the wife of Rifa'ah Qurazi came to the Messenger of Allah ﷺ and said that she had been married to Rifa'ah who had divorced her and completed the whole procedure, i.e., given three divorces. She had, thereupon, married Abdul Rahman ibn Zubair, but is incapable of performing the sexual act. The Messenger of Allah ﷺ asked her if she wanted to go back to Rifa'ah to which she replied in the affirmative. The Messenger of Allah ﷺ, then, observed: "It cannot be done until sexual intercourse takes place between you two."(Meaning between the former wife of Rifa'ah and her new husband." (Bukhari & Muslim)

Commentary: The commandment is set forth, also, in the Qur'an which says:

فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْم بَعْدُ حَتّٰى تَنْكِحَ زَوْجًا غَيْرَهُ (البقره ٢:٢٣٠)

"And if a person divorces his wife the third time, he cannot, after that, re-marry her until after she has married another husband. (Al Baqarah 2:23)

It is only in the event that the second husband dies or he, also, divorces her that the woman can re-marry her former husband, after completing the period of *Iddah*.

From this and many other similar Traditions, we learn by way of elucidation of the afore-mentioned verse of the Qur'an that the mere performance of marriage with some other man is not enough for this prupose. Its consummation is essential. This view is upheld by a vast majority of the Jurists. The condition of second marriage will, indeed, be rendered meaningless if it is not subject to the completion of the act that is fundamental to the relationship between man and wife.

Even a Divorce in Jest is A Divorce

(١٧١١/٤٠) عَنْ اَبِىْ هُرَيْرَةَ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ ثَلَاثٌ جِدُّهُنَّ جِدٌّ وَهَزْلُهُنَّ جِدٌّ النِّكَاحُ وَالطَّلَاقُ وَالرَّجْعَةُ. (رواه الترمذى و ابوداؤد)

(1711/40) It is related by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "There are three things to speak seriously and with deliberation with relation to which is a reality, and to speak light-heartedly and in jest with relation to which, too, is a reality. The three things are: marriage, divorce and restitution, i.e., receiving by a husband of his wife after divorce.

(Tirmizi and Abu Dawood)

Commentary: Its purport is that if a man marries a woman or divorces her or recieves back the divorced wife in joke. it will be real in the eyes of the *Shari'ah* and deemed to have, actually, taken place. Marriage, divorce or restitution, by their nature, are such serious and solemn acts that no fun or frivolity can be permitted.

Divorce By a Man of A Deranged Mind

(١٧١٢/٤١) عَنْ اَبِیْ هُرَیْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كُلُّ طَلَاقٍ جَائِزٌ إِلَّا طَلَاقَ الْمَعْتُوْهِ وَالْمَغْلُوْبِ عَلٰى عَقْلِهٖ. (رواه الترمذی)

(1712/41) It is related by Abu Hurayrah ﷺ that the Prophet ﷺ said: "Each divorce is valid except by a man who is not in his senses." (Tirmizi)

Commentary: Sometimes, a man goes out of his mind, owing to a shock or illness, and does things he would not do if he was in his senses. Should such a man divorce his wife, in that condition, the divorce will not have a legal force in the same way as the divorce a lunatic is held, legally, to be of no effect.

In another Tradition, it is stated tha there are three persons who will not be held responsible for what they say or do, and no law of the *Shari'ah* shall be applicable to them: (i) he who is in a state of slumber; (ii) a minor child; and (iii) one who is out of his mind.

It denotes that if a man divorces his wife while talking hin his sleep, it will not be effective, and similar is the case with the divorce given by a minor child or a man with a deranged mind.

A Divorce Under Duress is Null And Void

(١٧١٣/٤٢) عَنْ عَائِشَةَ قَالَتْ سَمِعْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ لَا طَلَاقَ وَلَا عِتَاقَ فِیْ اِغْلَاقٍ. (رواه ابو داؤد وابن ماجة)

(1713/42) Sayyidah Ayshah رضی اللہ عنہا relates, saying that she heard the Messenger of Allah ﷺ say: "A divoce and setting free of a slave under duress are void and have no effect (in law)."
(Abu Dawood and Ibn Majah)

Commentary: It shows that if a man is made to divorce his wife or sets free his slave under constraint or coercion, it will not be valid. This is the viewpoint of a majority of Jusists, but Imam Abu Hanifah holds that a divorce given under duress will be effective in the same way as a divorce given in jest, and the authorities of the Hanafi School of thought gives quite a different interpretation of the above Tradition.

It should, however, be noted tha Imam Abu Hanifah is not alone in his judgement, but Saeed ibn Mussaiyyib, Ibrahim

Nakha'ee and Sufyan Thauri, also, are reported to have drawn the same conclusion.

Iddah

The law of *Iddah*, too, has been laid down, in the Islamic *Shari'ah*, for a divorced woman. It maintains that a woman whose husband has divorced her should spend a period of time in waiting, the essentilal details of which are given in the Qur'an itself. For a menstruating woman, a period of waiting for three monthly courses has been prescirbed, while if the menses have finally ceased or have not yet started and she is, also, not in the family way, it is three months. For a pregnant woman, *Iddah* extends up to the time she delivers the child, no matter how long or short it is.

The provision of *Iddah* is a prudent, well-advised and sensible arrangement. An important aspect of it is that it underlines the sanctity and solemnity of *Nikah*, i.e., the wedlock. Had there been no such stipulation and it was permitted to a woman to remarry at will and immediately after being divorced by her husband, it will, surely, have acted against the seriousness and dignity and reduce *Talaq* to a joke. Another aim, specially in the case of *Raj'ee* (reversible) *Nikah*, is to give an opportunity to the husband to think over the whole thing again and take back the divorce so that the couple may live, once more, as man and wife which is more pleasing to God and Prophet ﷺ. It is for this reason that during the *Iddah* of *Talaq Raj'ee*, the woman is advised to pay a little more attention to her adornment and behave towards her husband in such a way that he may, again, feel attached to her and decide to recieve her back as his wife. As for *Talaq Baina*,[1] though it is not possible for the husband to return to his wife, there still remains a greater possibility of re-marriage by mutual consent as a result of the stipulation that the wife cannot marry again before the expiry of the peirod of waiting.

The third consideration is that there remained no possibility of doubt about the paternity of the child born to the woman after divorce.

Anyway, these are some of the manifest aims and advantages of the law of *Iddah*. It is, perhaps, for these reasons that a period of

waiting after separation is prescribed, in one form or another, in a number of civilised societies of the world, but, in some cases, the peirod is so long as to become unbearble for the woman. The period of *Iddah* laid down in the *Shariah*, as everyone will agree, is moderate and reasonable.

From the Tradition that follows we will learn that the law of *Iddah* was revealed when a Companion ﷺ of the Prophet ﷺ called Asma ibn Yazid ibn es-Sakan Ansariya, had been divorced by her husband.

(١٧١٤/٤٣) عَنْ اَسْمَاءَ بِنْتِ يَزِيْدَ بْنَ السَّكَنِ الْاَنْصَارِيَّةِ قَالَتْ اَنَّهَا طُلِّقَتْ عَلٰى عَهْدِ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَلَمْ يَكُنْ لِلْمُطَلَّقَةِ عِدَّةٌ فَاَنْزَلَ اللهُ الْعِدَّةَ لِلطَّلَاقِ فَكَانَتْ اَوَّلَ مَنْ نَزَلَ فِيْهَا الْعِدَّةُ لِلطَّلَاقِ. (رواه ابو داؤد)

(1714/43) It is related by Asma bint Yazid ibn as-Sakan Ansariya, that she had been divorced during the time of the Messenger of Allah ﷺ, and until then no commandment had come down concerning *Iddah*. So, the Lord revealed the verses of the Qur'an in which *Iddah* for a divorced woman was decreed. Asma bint Yazid, thus, was the first divorced woman about whom the commandment of *Iddah* was revealed.

(Abu Dawood)

Commentary: The Qur'anic verse mentioned in it is, perhaps, the following verse of *Surah Al-Baqara*:

وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِاَنْفُسِهِنَّ ثَلٰثَةَ قُرُوْٓءٍ الآية (البقره ٢:٢٢٨)

And the divorced women shall wait, keeping themselves apart, for three monthly periods. (Al Baqarah 2:228)

Laws concerning women who are not menstruating owing to minority or old age or who are with child indicated in *Surah At-Talaq*.

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❶. Lietrally, 'a divorce that separates.' In the Shariah, it is distinguished from the three divorces in the sense that while the third time the divorce becomes irrevocable until the woman marries some other man, nad he, also, divorces her, in *Talaq Baina* no such condition is laid and re-union is permissible without it.

Iddah on Death And Mourning

There is the command of *Iddah* for the widow, in the *Shariah*, in the same way as for the divorced woman. As it is distinctly stated in the Qur'an:

وَالَّذِيْنَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُوْنَ اَزْوَاجًا يَتَرَبَّصْنَ بِاَنْفُسِهِنَّ اَرْبَعَةَ اَشْهُرٍ وَّعَشْرًا
(البقره ٢:٢٣٤)

And those of you who die, and leaves their wives, such women shall wait by themselves for four months and ten days.
(Al Baqarah 2:234)

This applies to the widows who are not pregnant. For the widows who are in the family way, the *Iddah* has been prescribed in another verse. It is until the child is born, however long or short the period may be. For the term of *Iddah*, the Command of mourning has, also, been given. A widowed woman is enjoined to show the conventional grief during the whole period of waiting. She is to abstain strictly from using things that are, commonly, assoicated with embellishment, and lead a life indicating her loss and sorrow so that those who saw her should know from her dress, appearance and behaviour that, like a good and virtuous lady, she was feeling sad and distressed at the death of her husband. but this commandment is only for the period of *Iddah*, and should cease at its expiry. It is not allowed, in the *Shariat*, that a woman observed life-long mourning on the death of her husband.

Aside of the husband, if a woman shows he heart-felt giref, in the form of mourning at the death of any other near relative like father or brother, she can do so only for three days.

(٤٤/١٧١٥) عَنْ اُمِّ حَبِيْبَةَ وَ زَيْنَبَ بِنْتِ جَحْشٍ عَنْ رَسُوْلِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا يَحِلُّ لِاِمْرَأَةٍ تُؤْمِنُ بِاللّٰهِ وَالْيَوْمِ الْاٰخِرِ اَنْ تُحِدَّ عَلٰى مَيِّتٍ فَوْقَ ثَلٰثِ لَيَالٍ اِلَّا عَلٰى زَوْجٍ اَرْبَعَةَ اَشْهُرٍ وَّ عَشْرًا. (رواه البخاری ومسلم)

(1715/44) It is related by Umm Habiba رضی الله عنها and Zainab bint Jahash رضی الله عنها that the Messenger of Allah ﷺ said: "It is not permitted to a believing woman that she observed mourning on the death of a near relative for more than three days, save that of her husband. On the death of the husband, the

commandment is that the mourning be observed for four months and ten days." (Bukahri and Muslim)

(١٧١٦/٤٥) عَنْ أُمِّ سَلِمَةَ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ الْمُتَوَفّٰى عَنْهَا زَوْجَهَا لَاتَلْبَسُ الْمُعَصْفَرَ مِنَ الثِّيَابِ وَلَا الْمُمَشَّقَةَ وَلَا الْحُلِيَّ وَلَا تَخْتَضِبُ وَلَا تَكْتَحِلُ. (رواه ابو داؤد والنسائى)

(1716/45) Umm Salmah رضى الله عنها relates, saying that the Prophet ﷺ said: "A woman whose husband has died should not wear clothes dyed in saffron or red chalk, nor use ornaments, hair-dye, henna or collyrium." (Abu Dawood and Nasai)

Commentary: In the days of the holy Prophet ﷺ, safflower and red chalk were, generally, used by women to dye their clothes for attraction. These two things have, thus, been, particularly, mentioned in the *hadith*, otherwise no special significance is attached to them and the real meaning and intention of the saying is that women who have been widowed should avoid wearing attractive clothes. In the same way, they should not use articles of adornment like ornaments, henna or collyrium.

The object of these rules and regulations is that the grief of a woman, at the loss of her husband, should not only be felt in the heart, but its effect must, also, be apparent from her dress etc.

كتاب المعاملات

KITAB UL-MA'MLAAT

(BOOK OF AFFAIRS)

IMPORTANCE OF ECONOMIC AFFAIRS

No man can do without acting jointly with others, and having various forms of relations, including monetary dealings. Men are dependent no one another for their needs. For instance, a labourer whose needs are very limited stands in need of the grocer from whom he can buy provisions for himself and his family, and the farmer needs the labourer to grow the crops. In the same way, both the labourer and the farmer are dependent for their dress upon the man who makes or sells the cloth, and the cloth manufacturer or dealer upon the person who buys it. If anyone has to build a house, he requires the services of the maison and other workers, and when he falls ill, he goes to the physician.

In brief, economic affairs, like buying and selling, labour and wages, agriculture and industry, and lending and borrowings are an essential part of life. In all these spheres, again, there is always the possibility of a dispute to settle with legal procedure and courts of justice is needed.

Though His Prophets عليهم السلام, specially the last of them, the Prophet Muhamamd ﷺ, Almighty Allah has enunciated the principles and methods of monetary dealings as well which , apparently, are related, purely, to worldly affairs. These laws are fully consistent with the nobility of the human race, and, also, hold out the assurance of felicity in both the worlds.

What is more, as a consequence, the management of these affairs and interests, in conformity with Divine guidance and the

laws of the *Shariah*, has ceased merely to be a worldly matter and got elevated to Faith itself, and, in a sense, to worship the promise of Divine recompense and elevation in ranks in the Hereafter in the same way as on deeds of worship, such as, *Salah, Fasting, Zikr*, Recitation and *Jihad* and to inculcate moral virtues etc.

The guidance, rules and regulations which have reached us through the Holy Prophet ﷺ concerning this department of life, *Muamlaat* (Mutual Dealings) as it is called, are, as far as we know, based upon four fundamental principles: i) public good; ii)justice; iii) honesty and truthfulness; and iv) compassion.

Clean Living And Lawful Earning

(١٧١٧/١) عَنْ عَبْدِاللهِ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ طَلَبُ كَسْبِ الْحَلَالِ فَرِيْضَةٌ بَعْدَ الْفَرِيْضَةِ. (رواه البهيقى فى شعب الايمان)

(1717/1) It is related by Abdullah ibn Masud ﷺ that the Messenger of Allah ﷺ said: "To earn lawfully is, also, a duty next (only) to the pricnipal duties of Faith." (Biahaiq)

Commentary: As most commentators agree, what this Tradition seeks to emphasise is that after testimony that there is no diety save God, and Muhammad ﷺ is the Messenger of Allah and *Salah Fasting* etc, which are the fundamentals tenets of Islam, it is the earning of one's livelihood through honest means and by engaging oneself cleanly in a trade or profession that comes frist. Whoever is heedless incurs the danger of succumbing to the temptation of earning money or acquiring wealth from illegitimate sources, and, then, his end, in the Hereafter, will be what has been indicated in the Qur'an and the Traditions with regard to those who live on unclean income.

Again, to perform a duty enjoined by God, obviously, in an act of worship, and the bondsman who does so is deserving of the Divine reward a person becomes entitled to on doing anything he is required to do by the Lord. Hence, to strive towards earning one's livelihood through honest means is virtually identical to worship and worhty of Divine recompense. What good tidings does it contain, indeed, for the conscientious traders, artisans, workers and peasants who make a clean living! It may, however, be remebered

that the emphasis in this Tradition is on the seeking of a clean livelihood and not merely on making an imcome. The object of this saying is to warn against everything in connection with subsistence that is forbidden and unlawful.

Importance And Need of Money In Certain Circumstances

(١٧١٨/٢) عَنِ الْمِقْدَامِ بْنِ مَعْدِ يْكَرِبَ قَالَ سَمِعْتُ رَسُوْلَ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ لَيَاتِيَنَّ عَلَى النَّاسِ زَمَانٌ لَايَنْفَعُ فِيْهِ اِلَّا الدِّيْنَارُ وَا الدِّرْهَم.

(رواه احمد)

(1718/2) It is related, on the authority of Miqdoom ibn M'adi Karab ﷺ, that he heard the Prophet ﷺ say: "A time will come wehn money, alone, will avail." (Musnad Ahmad)

Commentary: The narrator of this Tradition is a Taba'ee called Abu Bakr ibn Abi Maryam. he has related it on the authority of Sayyidina Miqdaam ibn M'adi Karab ﷺ. The incident he has mentioned in this context is that Sayyidina Miqdaam ibn M'adi Karab ﷺ had some milch cattle, the milk of which was sold by his slave-girl while the price was collected by Miqdaam himself. Some people felt that it was unbecoming of Sayyidina Miqdaam ﷺ to make money by selling milk, and they objected to it. Sayyidina Miqdaam ﷺ admitted that he did so, and, in his support, referred to the aforementioned saying of the Prophet ﷺ. Had the holy Prophet ﷺ not said that a time was to come when money, alone, would be of use to men? What Sayyidina Miqdaam ﷺ meant was that it might not be a highminded act to make money by selling milk, but, surely was permissible.

The Honest Trader Will Be With The Prophets, The Truthful and The Martyrs

(١٧١٩/٣) عَنْ اَبِىْ سَعِيْدٍ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اَلتَّاجِرُ الصَّدُوْقُ الْاَمِيْنُ مَعَ النَّبِيِّيْنَ وَالصِّدِّيْقِيْنَ وَالشُّهَدَاءِ.

(رواه الترمذى والدارمى والدارقطنى' و رواه ابن ماجة عن ابن عمر)

(1719/3) It is related by Abu Saeed Khudri ﷺ that the Messenger of Allah ﷺ said: "The trader who plies his trade

cleanly and honestly will rise, in the Hereafter, in the company of the Propehts عليهم السلام, the Truthful, and the Martyrs."

(Tirmizi, Daarami and Daar-Qutni)

Note: The same Tradition has been quoted by *Ibn Majah*, on the authority of Sayyidina Ibn Umar ﷺ.

Commentary: Says the Qur'an:

وَمَنْ يُّطِعِ اللّٰهَ وَالرَّسُوْلَ فَاُولٰٓئِکَ مَعَ الَّذِيْنَ اَنْعَمَ اللّٰهُ عَلَيْهِمْ مِنَ النَّبِيّٖنَ وَالصِّدِّيْقِيْنَ وَالشُّهَدَاءِ وَالصَّالِحِيْنَ وَحَسُنَ اُولٰٓئِکَ رَفِيْقًا (النسآء ٤:٦٩)

And whoever obeys Allah and the Messengers عليهم السلام, they are with those whom Allah has blessed — of the Prophets عليهم السلام and the truthful, and the martyrs, and the righteous, and an excellent company are they. (Al Nisaa 4:69)

The life of a trader is beset with numerous trials and temptations. He is, often, confronted with a situation in which there, apparently, is the danger of loss if he remains steadfast and follows the path of honesty, as enjoined by the Almighty, and a good chance of profit if he disregards the Divine commandments and allows himself to be guided solely by material considerations. Thus, the trader who observes his duty to God in business dealings comes out successful in the trial prescribed by the Lord, and, for him ,there is the promise that he will be in the company of the most favourite bondsmen of the Lord in After-life- the Prophets عليهم السلام, the Truthful and the Martyrs. This will be the reward of the upright traders in the world to come.

Warning: As we had occasion to point out repeatedly in the earlier volumes, all the tidings like it are subject to the condition that a person abstains from the other wicked and sinful deeds as well which are abomination in the sight of God and make one unworthy of His good Grace.

Dignity of Labour

(١٧٢٠/٤) عَنِ الْمِقْدَامِ بْنِ مَعْدِ يَكْرَبَ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ مَا اَكَلَ اَحَدٌ طَعَامًا قَطُّ خَيْرًا مِنْ اَنْ يَّاكُلَ مِنْ عَمَلِ يَدَيْهِ وَاِنَّ نَبِيَّ اللّٰهِ دَاوٗدَ عَلَيْهِ السَّلَامُ كَانَ يَاكُلُ مِنْ عَمَلِ يَدَيْهِ. (رواه البخاری)

(1720/4) It is related by Miqdaam ibn M'adi Karab ﷺ that the Messenger of Allah ﷺ said: "The cleanest food is that which has ben earned by the labour of one's hand. In fact, the Prophet Dawood ﷺ used to work with his hands for his living."

(Bukhari)

Commentary: It stresses the dignity of labour and cites the example of Prophet Dawood ﷺ to bring home the food purchased from the earnings. It is told in the Qur'an that Prophet Dawood ﷺ used to make Chain armour and, from the above Tradition, we, further, learn that he did it for a living.

(١٧٢١/٥) عَنْ رَافِعِ بْنِ خَدِيْجٍ قَالَ قِيْلَ يَارَسُوْلَ اللهِ اَىُّ الْكَسْبِ اَطْيَبُ؟ قَالَ عَمَلُ الرَّجُلِ بِيَدِهٖ وَكُلُّ بَيْعٍ مَبْرُوْرٍ. (رواه احمد)

(1721/5) Sayyidina Raafi' ibn Khadeej ﷺ narrates that a person (once) enquired from the Prophet ﷺ which income was better and more clean. (What was a better way of earning one's livelihood)? "The one who works with his hands, and every trade that was (done) with honesty," replied the Messenger of Allah ﷺ. (Musnad Ahmad)

Agriculture And Fruit-Growing

(١٧٢٢/٦) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَا مِنْ مُؤْمِنٍ يَغْرِسُ غَرْسًا اَوْ يَزْرَعُ زَرْعًا فَيَاكُلُ مِنْهُ طَيْرٌ اَوْ اِنْسَانٌ اَوْ بَهِيْمَةٌ اِلَّا كَانَ لَهٗ صَدَقَةٌ. (رواه البخارى و مسلم)

(1722/6) It is related by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "Whatever believing bondsman grew a crop or planted a tree, and a bird, animal or man ate from it, it would be charity on his part." (Bukhari and Muslim)

Commentary: The above Tradition indicates that the one who cultivates the land and grows fruit trees is blessed and entails reward from Allah as a *Sadaqah*. If any animal or a bird eats from that crop of his land or from a fruit tree. It is an incentive for Agriculturists and fruit growers.

Legitimate Wealth is A Blessing

(١٧٢٣/٧) عَنْ عَمْرِو بْنِ الْعَاصِ اَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ لَهُ اُرِيْدُ اَنْ اَبْعَثَکَ عَلٰى جَيْشٍ فَيُسْلِمَکَ اللهُ وَ يُغْنِمُکَ وَاَزْعَبَ لَکَ مِنَ الْمَالِ زَعْبَةً صَالِحَةً فَقُلْتُ يَارَسُوْلَ اللهِ مَا اَسْلَمْتُ مِنْ اَجَلِ الْمَالِ وَلٰكِنْ اَسْلَمْتُ رَغْبَةً فِي الْاِسْلَامِ وَاَنْ اَكُوْنَ مَعَکَ فَقَالَ يَا عَمْرُو نِعْمَ الْمَالُ الصَّالِحُ لِلْمَرْءِ الصَّالِحِ. (رواه احمد)

(1723/7) Amr ibn al-'Aas ﷺ related to us, saying that the Messenger of Allah ﷺ said to him: "I intend to send you, (on a military expedition), as the commander of the army, and, then, by the Grace of Allah, you return safe and sound (and victorious) and take the spoils of war (from the enemy), and recieve a good grant of wealth from God." Upon it, (amr ibn al-Aas ﷺ went on to relate that he said): "O Messenger of Allah! I have not embraced Islam for worldly goods, but for the liking and attachment I have for it and for the reason that I am blessed with your company. "O Amr!" the Prophet ﷺ replied, "clean and lawful wealth is a good thing and a blessing for a virtuous bondsman." (Musnad Ahmad)

Commentary: It tells that weatlh acquired through legitimate means is a special favour of Allah. On the other hand, in the earlier volumes, we saw Traditions, under the headings of 'Asceticism' and 'Soft-heartedness', to the effect that poverty was preferable to riches and the poor of the *Ummah* were more blessed than the well-to-do, Both the view-points, however, are correct in their context. If contentment and willing acceptance of what has been decreed by Allah falls to the lot of anyone, alongwith poverty, it doubtlessly, is an enviable satate. It was preferred by the Holy Prophet ﷺ for himself, and he used to pray for it. At the same time, if Allah bestows riches on anyone, through lawful means, and he is, also, blessed with a grateful heart and the prudence to make a proper use of his wealth, it, too, is a special favour of God.

Among the Messengers, the Lord had favoured Sayyidina Dawood (David), Sulayman (Solomon), Ayub (Job), and Yusuf (Joseph) عليهم السلام, and many other with His grace in this matter, and among the leading Compainons there were Uthman, Sayyidina

Abdul Rahman ibn 'Awf, Zubair ibn 'Awam etc. ﷺ.

Importance And Politeness in Monetory Dealings

(١٧٢٤/٨) عَنْ اِبْنِ مَسْعُوْدٍ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ لَا تَزُوْلُ قَدَ مَا
اِبْنِ اٰدَمَ يَوْمَ الْقِيٰمَةِ حَتّٰى يُسْئَلَ عَنْ خَمْسٍ عَنْ عُمُرِهٖ فِيْمَا اَفْنَاهُ وَ عَنْ شَبَا بِهٖ
فِيْمَا اَبْلَاهُ وَ عَنْ مَالِهٖ مِنْ اَيْنَ اكْتَسَبَهٗ وَفِيْمَا اَنْفَقَهٗ وَمَاذَا عَمِلَ فِيْمَا عَلِمَ.

(رواه الترمذی)

(1724/8) It is related by Abdullah ibn Mas'ud ﷺ that the Messenger of Allah ﷺ said: "On the Last Day (when people will be brought together for the Final Requital), no one's feet will move until he has been questioned about five things: about his life, and how he lived; about his youth, and wherein he wasted it; about his wealth, and where from he acquired it, and on what he spent it; and about what he did in what he was given the knowledge of." (Tirmizi)

Commentary: stressing the implorance of monetary affairs, it tells that everyone will have to render a full account of his conduct in that behalf on the Day of Judgement, as to how he earned or acquired wealth in his life and in what manner did he spend it.

The Curse of Ill-Gotten Wealth

(١٧٥٢/٩) عَنْ عَبْدِاللّٰهِ بْنِ مَسْعُوْدٍ عَنْ رَسُوْلِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ
لَا يَكْسِبُ عَبْدٌ مَالَ حَرَامٍ فَيَتَصَدَّقُ مِنْهُ فَيُقْبَلُ مِنْهُ فَيُبَارَكُ لَهٗ فِيْهِ وَلَا يَتْرُكُهٗ
خَلْفَ ظَهْرِهٖ اِلَّا كَانَ زَادَهٗ اِلَى النَّارِ، اِنَّ اللّٰهَ لَا يَمْحُوْ السَّيِّئَ بِالسَّيِّئِ وَلٰكِنْ
يَمْحُو السَّيِّئَ بِالْحَسَنِ، اِنَّ الْخَبِيْثَ لَا يَمْحُو الْخَبِيْثَ.

(رواه احمد وكذافی شرح السنة.)

(1725/9) It is related by Abdullah ibn Mas'ud ﷺ that the Messenger of Allah ﷺ said: "If a person earns or acquires anything (through dishonest means) and, then, give away a part of it in charity, the act of charity will not be accepted, and if he will spend from it on his needs, there will be no auspiciousness in it, and if he will leave it behind to his descendants, it will serve for him as provision for Hell. Believe it, God does not remove evil with evil, but evil with good. One impurity does not annul another. (It can not make it clean)." (Musnad Ahmad)

Commentary: It emphasises that charity given from illgotten wealth is not acceptable to God, and there is no real propitiousness in impure earnings. In the same way, should a person leave behind wealth obtained in an illegitimate way, it will be ruinous him on the Day of Final Recokoning. He will be guilty both of making money dishonestly and leaving it to his heirs and successors to eat of the impure while to leave behind wealth acquired cleanly and honestly is a kind of charity, and will fetch a reward in the Hereafter.

The concluding part of the narrative explains why charity from illegal wealth will not find acceptance with Allah and prove harmful for the giver on the Day of Judgement.

Charity serves as an atonement for sins and acts as a means to forgiveness provided that it is given out of goods acquired through lawful means, but if it is given from wealth earned by corrupt and fraudulent practices, there will be no such property in it in the same way as dirty water can not be expected to make dirty clothes clean.

(١٧٢٦/١٠) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ اللهَ طَيِّبٌ لَا يَقْبَلُ اِلَّا طَيِّبًا وَاِنَّ اللهَ اَمَرَالْمُؤْمِنِيْنَ بِمَا اَمَرَ بِهِ الْمُرْسَلِيْنَ فَقَالَ يٰۤاَيُّهَا الرُّسُلُ كُلُوْا مِنَ الطَّيِّبَاتِ وَاعْمَلُوْا صَالِحًا وَّقَالَ يٰۤاَيُّهَا الَّذِيْنَ اٰمَنُوْا كُلُوْا مِنْ طَيِّبَاتِ مَارَزَقْنَاكُمْ ثُمَّ ذَكَرَا الرَّجُلَ يُطِيْلُ السَّفَرَ اَشْعَثَ اَغْبَرَ يَمُدُّ يَدَهُ اِلَى السَّمَاءِ يَارَبِّ يَارَبِّ وَمَطْعَمُهُ حَرَامٌ وَّ مَشْرَبُهُ حَرَامٌ وَمَلْبَسُهُ حَرَامٌ وَغُذِىَ بِالْحَرَامِ فَاَنّٰى يُسْتَجَابُ لِذَالِكَ. (رواه مسلم)

(1726/10) It is nerrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "O people! God is pure Himself, and accepts only what is pure, and He has given the same Command, concerning it, to all Believers as He has to His Prophets عليهم السلام. For them, the Commandment is:

يٰۤاَيُّهَا الرُّسُلُ كُلُوْا مِنَ الطَّيِّبَاتِ وَاعْمَلُوْا صَالِحًا (المومنون ٢٣:٥١)

O ye Messengers! eat of the good (and lawful) things, and do right. (Al Mu'minoon 23:51)

And for the Believers:

يٰۤاَيُّهَا الَّذِيْنَ اٰمَنُوْا كُلُوْا مِنْ طَيِّبَاتِ مَارَزَقْنَاكُمْ (البقرة ٢:١٧٢)

O mankind! Eat of what is lawful and wholesome is the earth, (and avoid what is impue). (Al Baqarah 2:172)

"After it," Abu Hurayrah ﷺ said, "The Messenger of Allah ﷺ narrated the story of a man who undertook a long journey (to a holy place) and arrived (there) in such a condition that his hair were dislevelled and his body covered with dust. He raised his hands towards the heavesn and cried: "O Lord! O my Preserver! 'But his food was of the impure, his dress was impure, and he had been brought up what was impure: how his prayer can, then, be granted?" (Muslim)

Commentary: The gist of the above Tradition is that God is pure and accepts only offerings that are pure, i.e., from goods acquired through legitimate means. It, further, denotes that the commandment to eat the good and lawful things was given to all the Prophets عليهم السلام, in the same way as to all the Believers. A true Believer should, therefore, realise the significance of the Divine commandment and observe it scrupulously. The Holy Prophet ﷺ has, also, emphasised that ill-gotten wealth is so hateful to God that even if a man went to a sacred place, like a miserable beggar, to supplicate to the Almighty, but his food and clothes were impure, his supplication would not be accepted.

(١٧٢٦/١١) عَنِ ابْنِ عُمَرَ قَالَ مَنِ اشْتَرٰى ثَوْبًا بِعَشْرَةِ دَرَاهِمَ وَ فِيْهِ دِرْهَمٌ حَرَامٌ لَمْ يَقْبَلِ اللّٰهُ لَهُ صَلٰوةً مَّا دَامَ عَلَيْهِ ثُمَّ اَدْخَلَ اِصْبَعَيْهِ فِيْ اُذُنَيْهِ قَالَ صُمَّتَا اِنْ لَّمْ يَكُنِ النَّبِيُّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ سَمِعْتُهُ يَقُوْلُهُ.

(رواه احمد والبيهقى فى شعب الايمان)

(1727/11) It is narrated by Abdullah ibn Umar ﷺ that the Messenger of Allah ﷺ said: "If a person buys a cloth for 10 dirhams, and, among them, one is tained, i.e., it has been earned thorugh dishonest means; none of his *Salah* will be accpeted by God as long as he wears it." After relating it, Abdullah ibn Umar ﷺ put his fingers in his ear and said: "May both the ears of nine become deaf if I have not heard the Prophet of Allah ﷺ say so." (Musnad Ahamd and Baihaqi)

(١٧٢٨/١٢) عَنْ جَابِرٍ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ لَايَدْخُلُ

الْجَنَّةِ لَحْمٌ نَبَتَ مِنَ السُّحْتِ وَكُلُّ لَحْمٍ نَبَتَ مِنَ السُّحْتِ كَانَتِ النَّارُ اَوْلٰى بِهٖ. (رواه احمد والدارمی والبیھقی فی شعب الایمان)

(1728/12) It is related by Jabir ﷺ that the Messenger of Allah ﷺ said: "The flesh and body shall not go to Heaven which are raised on unlawful sustenance. Hell is more deserving of the flesh that has grown on one's body out of what is unlawful."

(Musnad Ahmad Daarami and Baihaqi)

Commentary: Apparently, it shows tha a person whose sustenance is of the impure will go to Hell. But the commentators have expressed the view, in the light of other Traditions as well as verses of the Qur'an, that such a man will not be able to enter Heaven without undergoing punishment for living on unclean income. He may, however, be forgiven without punishment if he has repented sincerely before death or some virtuous bondsman has prayed for forgiveness, on his behalf, and the prayer has been granted, or the Gracious One, the All Merciful, Himself, decides to absolve him of the consequences of his sin.

(۱۷۲۹/۱۳) عَنْ اَبِیْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَاتِیْ عَلَى النَّاسِ زَمَانٌ لَا يُبَالِی الْمَرْءُ مَا اَخَذَ مِنْهُ مِنَ الْحَلَالِ اَمْ مِنَ الْحَرَامِ.

(رواه البخاری وزادرزین علیه فاذ ذالک لاتجاب لھم دعوۃ)

(1729/13) Abu Hurayrah ﷺ relates, saying that the Messenger of Allah ﷺ said: "A time will come when people will not care what they are acquiring is lawful or unlawful, legitimate or illegitimate." (Bukhari)

Commentary: The time, indicated, has come to be sure. How many are there, today, even among those supposed to be religious-minded, who cares to think or enquire about goods coming in their possession whether they are lawful or not. May be, even worse days are ahead.

In another version of the same report, quoted in *Musnad Razeen*, it is added that prayers will not be accepted at such a time. Inability to distinguish between the pure and the impure, and the lawful and the unlawful is, in fact, the spiritual death of a Muslim.

We will be giving below two incidents to illustrate what a profound effect the teachings of the holy Prophet ﷺ had produced

in the lives of the Companions ؓ.

It is related, in *Sahih Bukhari*, about Sayyidina Abu Bakr ؓ that, once, an attendant placed something to eat before him of which he partook a little. After it, the attendant told him that, before the advent of Islam, he had, once, posed as a sorcerer and forecast the future for someone as sorcerers did. That man had met him, by chance, on the day, and given him the food, on that account, which he had offered to Sayyidina Abu Bakr ؓ. As the latter heard of it, he made himself vomit by thrusting his fingers into the throat, and, thus, threw up the contents of his stomach.

Similarly, Imam Baihaqi has mentioned the following incident regarding Sayyidina Umar ؓ. It is stated that, once, a person offered some milk to him which he drank. Afterwards, he asked the man how he had got it, and he replied that he was passing by such-and-such a ghat[1] where some animals, including goats and she-camels which had been given away in *Zakah* were grazing and people were drawing milk from them as could be used for that pupose. They had given some of the milk to him as well which he had offfered to Sayyidina Umar ؓ. On hearing, Sayyidina Umar ؓ, too, vomited the milk, like Sayyidina Abu Bakr ؓ.

Piety Demands Shunning, Also, What is Doubtful

(١٤/١٧٣٠) عَنِ النُّعْمَانِ بْنِ بَشِيْرٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَلْحَلَالُ بَيِّنٌ وَالْحَرَامُ بَيِّنٌ وَ بَيْنَهُمَا مُشْتَبِهَاتٌ لَايَعْلَمُهُنَّ كَثِيْرٌ مِنَ النَّاسِ فَمَنِ اتَّقَى الشُّبُهَاتَ اِسْتَبْرَأَ لِدِيْنِهٖ وَعِرْضِهٖ وَمَنْ وَقَعَ فِى الشُّبُهَاتِ وَقَعَ فِى الْحَرَامِ كَالرَّاعِىْ يَرْعٰى حَوْلَ الْحِمٰى يُوْشِكُ اَنْ يَرْتَعَ فِيْهِ' اَلَا وَاِنَّ لِكُلِّ مَلِكٍ حِمًى اَلَا وَ اِنَّ حِمَى اللهِ مَحَارِمُهٗ اَلَا وَ اِنَّ فِى الْجَسَدِ مُضْغَةً اِذَا صَلُحَتْ صَلُحَ الْجَسَدُ كُلُّهٗ وَ اِذَا فَسَدَتْ فَسَدَ الْجَسَدُ كُلُّهٗ اَلَا وَهِىَ الْقَلْبُ.

(رواه البخارى و مسلم)

(1730/14) It has been narrated by Numan ibn Bashir ؓ that the Messenger of Allah ﷺ said: "What is allowed is clear and what is forbidden, also is clear. But, between them, there are a few things that are doubtful, and many people do not know about them. (They are ignorant of their true position in the *Shari'ah*).

[1]. A landing place; a bathing place on ariver-side.

Thus, whoever keeps away from doubtful things as well will protect his faith and honour and (his record will) remain unblemished, and whoever will indulge in doubtful things will land himself within the borders of the forbidden like the herdsman who grazes his cattle very close to the reserved area and there is every danger of the cattle straying into it and starting to graze there (which is prohibited). Know that every king has a pasture, (entry into which is forbidden without permission). The reserved area of the Almighty are the forbidden acts. (One must not go near them, i.e., avoid even the doubtful things). And beware, there is a lump of flesh in the human body, (the characteristic of which is that) if it is right, i.e., the radiance of Faith and the awareness of God and His fear are present in it, the whole body stays right, (its deeds and states are correct), and if it is in a bad condition, the condition of the whole body, too, is bad. Remember, that lump of flesh is the heart." (Bukhari and Muslim)

Commentary: It is one of the Traditions that are regarded by the atuhorities as most important and expressing a fundamental ethical principle of Islam.

First of all, it tells taht the position of what is lawful or forbidden in the *Shariah* is clear and free from doubt, but there are many other things or acts whose legitimacy or otherwise is uncertain, that is, they can be held lawful on the basis of one principle of the *Shariah* and unlawful on the basis of another principle. What becomes a faithful Believer in respect of doubtful things is that he avoids them out of piety and prudence. In it, lies the safety of his faith and honour.

Proceeding from it, the above Tradition emphasises that anyone who is not careful enough to abstain from doubtful things runs the risk of being led into committing the forbidden acts as well like the shepherd who asks for trouble by grazing his cattle in the vicinity of a reserved ground. Hence, as it is advisable for the herdsman to keep his cattle well away from a reserved forest or grazing ground, so, also, should a true Believer avoid doubtful things, in the interests of his faith and good name.

Lastly, it shows that the goodness or badness of a person depends on the state of his heart. If the heart of a man is sound and

the light of Faith and Divine fear are present in it, his whole existence will be of piety and good-doing, and, conversely, if it is goverened by sinful and carnal desires, his entire conduct will bear the imprint.

Some commentators have concluded from the arragnements of this Tradition that for the purification of the heart, it is essential for a man to abstain from doubtful things, alongwith the forbidden ones, in food and drink.

(١٧٣١/١٥) عَنْ عَطِيَّةَ السَّعْدِيِّ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ "لَايَبْلُغُ الْعَبْدُ اَنْ يَّكُوْنَ مِنَ الْمُتَّقِيْنَ حَتّٰى يَدَعَ مَالَا بَاسَ بِهٖ حَذَرًا لِمَا بِهٖ بَاسٌ.

(رواه الترمذی و ابن ماجه)

(1731/15) It is narrated by Atiya S'adi رضی الله عنها that the Prophet ﷺ said: "No one can attain the state of being included among the righteous until he forgoes the lawful pleasures[1] in order to avoid the sinful." (Tirmizi and Ibn Majah)

Commentary: There are many things which though lawful in themselves, are capable of exposing a man to sin. Prudence, therefore, demands that one kept away from them as well.

Gentleness And Forbearance in Money Matters

After belief and worship, a geat stress has been laid on the teachings of the holy Prophet ﷺ on showing kindness to fellowmen, particularly, the weak and the needy. We have been exhorted, in various ways, to be kind and considerate to each other in monetary transactions, such as, buying and selling, lending and borrowing. The debtors, for instance, are told to do their best to pay off the debts as quickly as possible while the creditors are required to be lenient those who owe them a debt they should be lenient in the realisation of their dues. The bondsmen who carry out their business transactions in this spirit will be deserving the mercy of Allah.

(١٧٣٢/١٦) عَنْ جَابِرٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ رَحِمَ اللهُ رَجُلًا سَمْحًا اِذَا بَاعَ وَاِذَا اشْتَرٰى وَاِذَا اقْتَضٰى. (رواه البخاری)

❶. The word Mubah occuring in the original denotes any indifferent action which incurs neither praise nor blame.

(1732/16) It is narrated by Jabir ﷺ that the Messenger of Allah ﷺ said: "Blessings of the Lord be on him who is mild and gentle in buying and selling, and in the realisation of dues."
(Bukhari)

(١٧٣٣/١٧) عَنْ حُذَيْفَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ رَجُلًا كَانَ فِيْمَنْ كَانَ قَبْلَكُمْ اَتَاهُ الْمَلَكُ لِيَقْبِضَ رُوْحَهُ فَقِيْلَ لَهُ هَلْ عَمِلْتَ مِنْ خَيْرٍ؟ قَالَ مَا اَعْلَمُ قِيْلَ لَهُ اُنْظُرْ قَالَ مَا اَعْلَمُ شَيْئًا غَيْرَ اَنِّى كُنْتُ اُبَايِعُ النَّاسَ فِى الدُّنْيَا وَاُجَازِيْهِمْ فَاُنْظِرُ الْمُوسِرَ وَ اَتَجَاوَزُ عَنِ الْمُعْسِرِ فَاَدْخَلَهُ اللهُ الْجَنَّةَ.
(رواه البخاری و مسلم و فی روایة المسلم)
نحوه عن عقبة بن عامر وابی مسعود النصاری فقال الله انا احق بذامنک تجاوز واعن عبدی

(1733/17) It is narrated by Huzayfah ﷺ that the Messenger of Allah ﷺ said: "There was a man belonging to a community before you. When the Angel of Death came to take possession of his soul, he was asked if he had performed any good deed in his worldly life (which could lead to salvation). 'There is no such deed as far as I remember, he replied. 'Think again', he was told. 'I can think of nothing like it', he said, 'except that I used to have business dealings with people, and my attitude, (in these matters), was one of mildness and forbearance. I used to allow respite to the rich. (They could pay off when they liked). (As for the poor), I often wrote off debts.' The Lord, thereupon, decreed for him to be admitted to Paradise." (Bukhari and Muslim)

This Tradition has been quoted in the same form in *Sahih Bukhari* and *Sahih Muslim*. In *Sahih Muslim*, however, it has, also, been reproduced on the authority of Sayyidina 'Aqba ibn 'Aamir and Sayyidina Abu Mas'ud Ansari ﷺ in which instead of "The Lord, thereupon, decreed for him to be admitted to Paradise," it is stated that the Lord, thereupon, observed that "the kindness and compassion you have been showing in your dealings with My bondsmen has a greater claim on Me (that I exercise clemency and compassion towards you)." The Lord told the Angels to let the bondsman go and treat him as if he had done no wrong. (He was forgiven). (Bukhari and Muslim)

Commentary: The holy Prophet ﷺ would, obviously, have come to know of the incident narrated above through a Divine

Revelation. The man reffered to, in it, had died in such a state that even he could not think of a deed that could serve as an atonement for his sins except that he was kindhearted and accomodating in business transactions. If he lent money to anyone or sold anything to him on credit and the man could not clear the dues, he used to write it off, and even if the debtor was a well-to-do person, he did not insist on prompt payment. God forgave him because of this state or state of his mind, and he was admitted to Heaven.

(١٧٣٤/١٨) عَنْ اَبِىْ هُرَيْرَةَ اَنَّ النَّبِىَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ كَانَ رَجُلٌ يُدَ ايِنُ النَّاسَ فَكَانَ يَقُوْلُ لِفَتَاهُ اِذَا اَتَيْتَ مُعْسِرًا تَجَاوَزْ عَنْهُ لَعَلَّ اللّٰهَ اَنْ يَّتَجَاوَزَ عَنَّا قَالَ فَلَقِىَ اللّٰهَ فَتَجَاوَزَ عَنْهُ. (رواه البخارى ومسلم)

(1734/18) It is narrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "(Once) there was a man who used to lend money. (When he sent his slave to realise the dues), he instructed him to forbear if the creditor happened to be a poor person. (He would say), May be, Allah bore with me and absolved me of my sins because of it." On hearing it, the Messenger of Allah ﷺ observed: "When the bondsman died and appeared before the Almighty, (on the Day of Judgement), he was forgiven." (Bukhari and Muslim)

(١٧٣٥/١٩) عَنْ اَبِىْ قَتَادَةَ قَالَ سَمِعْتُ رَسُوْلَ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ مَنْ اَنْظَرَ مُعْسِرًا اَوْ وَضَعَ عَنْهُ اَنْجَاهُ اللّٰهُ مِنْ كُرَبِ يَوْمِ الْقِيٰمَةِ (رواه مسلم)

(1735/19) Sayyidina Abu Qatadah ﷺ relates that he heard the Messenger of Allah ﷺ say; "God will protect him from the agonies of the Day of Requital who allows respite to a poor and indigents person in the payment of his debt or writes it off (wholly or partly)." (Muslim)

(١٧٣٦/٢٠) عَنْ اَبِىْ الْيَسَرِ قَالَ سَمِعْتُ النَّبِىَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ مَنْ اَنْظَرَ مُعْسِرًا اَوْ وَضَعَ عَنْهُ اَظَلَّهُ اللّٰهُ فِىْ ظِلِّهٖ (رواه مسلم)

(1736/20) Abu Yassar ﷺ relates, he heard the Messenger of Allah ﷺ say: "Whoever has a claim (like a debt) on a borther which is payable, and he allows respite to the debtor in its payment, he will be given the reward of charity, i.e., equal to the

reward promised on charity in return for each day of the respite." (Muslim)

(١٧٣٧/٢١) عَنْ عِمْرَانَ بْنِ حُصَيْنٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ كَانَ لَهُ عَلٰى رَجُلٍ حَقٌّ فَمَنْ اَخَّرَهُ كَانَ لَهُ بِكُلِّ يَوْمٍ صَدَقَةٌ (رواه احمد)

(1737/21) It is narrated by Imran ibn Husayn ﷺ that the Messenger of Allah ﷺ said, "If anyone who has a right (loan, etc) over anogther brother and he allowed him respite then for every day he allows he will get he reward of a *Sadqah*." (Ahmad)

Commentary: The Message of all these *ahadith* is very clear. May Allah cause us to abide by them.

Excellence of Giving a Loan, And Guidance

To give a loan to a needy person is to be helpful to him, and, in some Traditions, it is said that the recompense on it is even greater than that on charity. Sometime, severe warnings have, also, been given concerning the debt.

(١٧٣٨/٢٢) عَنْ اَبِىْ اُمَامَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ دَخَلَ رَجُلٌ الْجَنَّةَ فَرَاٰى عَلٰى بَابِهَا مَكْتُوْبًا اَلصَّدَقَةُ بِعَشْرِ اَمْثَالِهَا وَالْقَرْضُ بِثَمَانِيَةَ عَشَرَ. (رواه الطبرانى فى الكبير)

(1738/22) It is narrated, on the authority of Abu Umama ﷺ, that the Messenger of Allah ﷺ said, "as a person entered Heaven, he saw that it was written on the Gate of Heaven that the recompnse on charity was ten-fold, and on giving a loan, eighteen-fold. (Tabarani)

Commentary: It is not clear who the person spoken of in this Tradition was. The Holy Prophet ﷺ may have narrated what had been seen by some virtuous man in a dream or described one of his own visions in this form. The latter view is, to some extent supported by the fact that *Ibn Majah*, too, has quoted this Tradition with the addition that:

فقلت لجبريل مابال القرض افضل من الصدقة؟ قال لان السائل يسئل وعنده والمستقرض لا يستقرض الا من حاجة (جمع الفوائد)

"I, (the Messenger of Allah), enquired from Jibril عليه السلام what was the special merit in a loan that was superior to charity. He replied that 'a supplication (to whom cahrity is given) solicits alms and accepts charity even when he has something, (money etc.,) on him, while a person who asks for a loan does so only when he is in need". (Jam'a-ul-Fuwayid)

Sometimes, a person who, is also self-respecting and is in dire need of money, but he does not like to ask anyone for help or accept charity, and prefers to borrow. To give a loan to such a person will, evidently, be better than charity.

Our own experience is that there are many people who though willing to help a needy person through *Zakat* or charity, do not like to advance him loan. This Tradition, particularly, contains a moral for them.

Loan is A Most Serious Matter

On the one hand, the Holy Prophet ﷺ exhorted the well-to-do persons to lend money etc., to needy brethren and allow them respite in returning it or forgo it altogether or in part if the debtor happened to be really poor while, on the other, he urged upon the borrowers to pay back the debts as soon as possible for if they die in a state of indebtedness, with the claim of anyone lying unsettled the sequal of it would be most lamentable for them in the Hereafter. Sometimes, the Prophet ﷺ said that it was a most grievous and unforgivable sin to die without paying off one's debts, and, sometimes, if he learnt about anyone that he had died while being in debt, he declined to attend his funeral service which, perhaps, was intended to be a warning to others.

(١٧٣٩/٢٣) عَنْ اَبِىْ مُوْسىٰ عَنِ النَّبِىِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ اِنَّ اَعْظَمَ الذُّنُوْبِ عِنْدَاللّٰهِ اَنْ يَّلْقَاهُ عَبْدٌ بَعْدَ الْكَبَائِرِ الَّتِىْ نَهَى اللّٰهُ عَنْهَا اَنْ يَّمُوْتَ رَجُلٌ وَعَلَيْهِ دَيْنٌ لَا يَدَعُ لَهٗ قَضَاءً. (رواه احمد وابو داؤد)

(1739/23) It is narrated by Abu Moosa Ash'ari رضي الله عنه that the Messenger of Allah ﷺ said: "After the major sins (such as, Polytheism and adultery) from which God has strictly enjoined upon us to abstain, the greatest sin is that a man died in a state

that he owed a debt to anyone and left behind no assets to pay it off." (Musnad Ahmad and Daarami)

(١٧٤٠/٢٤) عَنْ اَبِیْ هُرَیْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ نَفْسُ الْمُؤْمِنِ مُعَلَّقَةٌ بِدَیْنِهٖ حَتّٰی یُقْضٰی عَنْهُ

(رواه الشافعی واحمد والترمذی و ابن ماجة والدارمی)

(1740/24) It is narrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "The soul of a faithful Believer remains suspended in the middle owing to indebtedness, until the debt is paid off."(Musnad Shafae, Musnad Ahmad, Abu Dawood and Daarami)

Commentary: It shows that if a person dies as a Muslim, and has, also, done good deeds which are a source of deliverance, but he is in debt and has not been careful enough to pay it back, he will not be admitted to Paradise until the debt has been paid back on his behalf.

(١٧٤١/٢٥) عَنْ عَبْدِاللهِ بْنِ عَمْرٍو اَنَّ رَسُوْلَ اللهِ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ قَالَ یُغْفَرُ لِلشَّهِیْدِ کُلُّ ذَنْبٍ اِلَّا الدَّیْنَ. (رواه مسلم)

(1741/25) Sayyidina Abdullah ibn 'Amr ﷺ narrated that the Messenger of Allah ﷺ said: "If a person is killed in the path of God, all his sins are fogiven, (by virtue of martrydom), except a loan." (Muslim)

Commentary: Martyrdom is such a meritorious act that all the sins of a man are forgiven as a result of it. But if a person owes a debt to anyone and he falls a martyr in the way of God without having paid it off and has been negligent about it, he will remain caught in misfortune on account of it, since it is related to the Rights of Men, until the debt is paid on his behalf or the creditor himself decides to write it to off for the sake of God.

(١٧٤٢/٢٦) عَنْ اَبِیْ قَتَادَةَ قَالَ قَالَ رَجُلٌ یَارَسُوْلَ اللهِ اَرَأَیْتَ اِنْ قُتِلْتُ فِیْ سَبِیْلِ اللهِ صَابِرًا مُحْتَسِبًا مُقْبِلاً غَیْرَ مُدْبِرٍ یُکَفِّرُاللهُ عَنِّیْ خَطَایَایَ فَقَالَ رَسُوْلُ اللهِ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ نَعَمْ...... فَلَمَّا اَدْبَرَ نَا دَاهُ فَقَالَ نَعَمْ اِلَّا الدَّیْنَ کَذَالِکَ قَالَ جِبْرِیْلُ. (رواه مسلم)

(1742/26) Sayyidina Abu Qatadah رضي الله عنه narrates that once a person said to the Messenger of Allah ﷺ, "Tell me, Messeger of Allah ﷺ, if I take part in *Jihad* with fortitude and staedfastness, and, solely, for the sake of earning the good pleasure of Allah and the reward of the Hereafter, and I am killed in the condition that I am not retreating, but advancing, will all my sins be forgiven owing to my sacrifice and martyrdom?" "Yes", the Prophet ﷺ replied, "(God will forgive your sins)." As the man was returning, after it, the Messenger of Allah ﷺ called him back and said: "(All your sins will be forgiven) except a debt. This is what I have been told by Jibril عليه السلام. (Muslim)

Commentary: It shows that all the sins of a man are forgiven who is martyred for the sake of God, but if he dies with a debt still unpaid, he will be called to account for it. The Holy Prophet ﷺ told, further, that he was saying it on the basis of the Revelation brought to him by the Archangel Jibril عليه السلام.

(١٧٤٣/٢٧)عَنْ مُحَمَّدِ بْنِ عَبْدِاللهِ بْنِ جَحْشٍ قَالَ كُنَّا جُلُوْسًا بِفِنَاءِ الْمَسْجِدِ حَيْثُ يُوْضَعُ الْجَنَائِزُ وَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ جَالِسٌ بَيْنَ ظَهْرَيْنَا، فَرَفَعَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَصَرَهُ اِلٰى السَّمَاءِ فَنَظَرَ ثُمَّ طَاطَأَ بَصَرَهُ وَ وَضَعَ يَدَهُ عَلٰى جَبْهَتِهٖ قَالَ سُبْحَانَ اللهِ، سُبْحَانَ اللهِ، مَاذَا نَزَلَ مِنَ التَّشْدِيْدِ، قَالَ فَسَكَتْنَا يَوْمَنَا وَلَيْلَتَنَا فَلَمْ نَرَ اِلَّا خَيْرًا حَتّٰى اَصْبَحْنَا، قَالَ مُحَمَّدٌ فَسَأَلْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَا التَّشْدِيْدُ الَّذِىْ نَزَلَ؟ قَالَ فِى الدَّيْنِ وَالَّذِىْ نَفْسُ مُحَمَّدٍ بِيَدِهٖ لَوْ اَنَّ رَجُلًا قُتِلَ فِىْ سَبِيْلِ اللهِ ثُمَّ عَاشَ ثُمَّ قُتِلَ فِىْ سَبِيْلِ اللهِ ثُمَّ عَاشَ ثُمَّ قُتِلَ فِىْ سَبِيْلِ اللهِ ثُمَّ عَاشَ وَ عَلَيْهِ دَيْنٌ مَا دَخَلَ الْجَنَّةَ حَتّٰى يُقْضٰى دَيْنُهُ. (رواه احمد)

(1743/27) It is narrated, on the authority of Muhammad ibn Abdullah ibn Jahash رضي الله عنه, "(once), we were sitting in the open space outside the mosque where the dead bodies are brought and the Messenger of Allah ﷺ, also, was sitting with us suddenly, he looked towards the sky, and saw something, and then, he looked his gaze, and sat (in a typically concerned and meditative mood), with his hand placed on the forehead, and

remarked: "Good God! God be praised! What a stern warning and Commandment has come!'" The narrator, Muhammad ﷺ ibn Abdullah, goes on. "We kept quiet on that day and night, (and waited for what was to happen, but), when all went well, we asked the Messenger of Allah ﷺ the next morning about the grave and depressing things that had been revealed yesterday. The Prophet ﷺ replied: 'A most stern warning and Commandment has been revealed about loan.' (Elaborating on it, he observed): 'By the Holy Being in whose control is my life! If a person is killed in *Jihad*, and he returns to life only to be killed again, in *Jihad*, and there is still a debt outstanding against him, he will not enter Paradise until the debt is settled.'"

(Musnad Ahamd)

Commentary: These Traditions and warnings seemingly, appertain to cases in which the debts remain unpaid owing to negligence or ill-intention. If a person wants sincererly to pay back a loan but can not do so owing to the adversity of his circumstances and departs from the world being in debt, it is confidently expected from the Mercy and Benevolence of Allah that he will be deemed excusable. the Tradition we are going to take up later will show it more explicitly.

(١٧٤٤/٢٨) عَنْ سَلْمَةَ بْنِ الْاَكْوَعِ قَالَ كُنَّا جُلُوْسًا عِنْدَالنَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اِذْ اُتِيَ بِجَنَازَةٍ فَقَالُوْا صَلِّ عَلَيْهَا فَقَالَ هَلْ عَلَيْهِ دَيْنٌ قَالُوْا لَا فَصَلّٰى عَلَيْهَا ثُمَّ اُتِيَ بِجَنَازَةٍ اُخْرٰى، فَقَالَ هَلْ عَلَيْهِ دَيْنٌ قِيْلَ نَعَمْ قَالَ فَهَلْ تَرَكَ شَيْئًا؟ قَالُوْا ثَلٰثَةَ دَنَانِيْرَ فَصَلّٰى عَلَيْهَا ثُمَّ اُتِيَ بِالثَّالِثَةِ، فَقَالَ هَلْ عَلَيْهِ دَيْنٌ؟ قَالُوْا ثَلٰثَةَ دَنَانِيْرَ قَالَ هَلْ تَرَكَ شَيْئًا؟ قَالُوْا لَا قَالَ صَلُّوْا عَلٰى صَاحِبِكُمْ قَالَ اَبُوْ قَتَادَةَ صَلِّ عَلَيْهِ يَا رَسُوْلَ اللّٰهِ وَعَلَيَّ دَيْنُهٗ، فَصَلّٰى عَلَيْهِ. (رواه البخاری)

(1744/28) It is narrated by Salmah ibn Al-Akoo' رضي الله عنه "we were sitting with the Messenger of Allah ﷺ and was requested to lead the funeral *Salah*. The Messenger of Allah ﷺ enquired: 'Does he owe a debt to anyone?' On being told that the man had not died in debt, the Messenger of Allah ﷺ led the funeral *salah*. Later, another dead body was brought and the Messenger of Allah ﷺ enquired if the person owed a debt to anyone. 'Yes', he was told, 'the man had died in debts.' 'Has he left behind

anything out of which the debt can be paid?' asked the Messenger of Allah ﷺ. The people informed that he had left behind three dinars. The Messenger of Allah ﷺ, then, led the funeral Salah. After it, a thrid dead body was brought and the Prophet ﷺ, again, enquired if the person had died in the state of indebtedness. 'Yes', the people said. 'He owed three dinars'. The Messenger of Allah ﷺ, then, asked if he had left any assets (which could be used for paying the debt). The Prophet ﷺ was told that the man had left behind nothing. Upon it, the Prophet ﷺ told the Companions ؓ present to offer the funeral salah of their brother. At that time Abu Qatadah Ansari ؓ requested the Messenger of Allah ﷺ to lead the salah, saying that he had taken upon himself the loan of the dead person owed. (He will pay it). The Prophet ﷺ thereupon, led the funeral salah."

(Bukhari)

Commentary: The action of the sacred Prophet ﷺ, apparently, was aimed at imparting to the people the lesson not to be neglectful in the payment of debts. The endeavour of everyone should, as such, be to depart from the world in the condition that he did not owe anything to anyone.

Another Tradition quoted in *Bukhari* and *Muslim*, on the authority of Abu Hurayrah ؓ, tells that the attitude of the Holy Prophet ﷺ towards the funeral salah of persons who, as indicated above, died being in debt, related to the early phase of Islam. Later on, when the Lord had opened the door of victories and abundance, and the period of poverty was over, the Prophet ﷺ had declared that if a Muslim died in a state of indebtedness, and he did not leave behind assets that could be used to pay the debt, it would be his responsibility to clear it up. The aim, agian, was that the claim of anyone on a Muslim did not remain unsatisfied.

If There Intention to Pay Back a Loan, God Will, Somehow, Have it Paid

(١٧٤٥/٢٩) عَنْ اَبِیْ هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ مَنْ اَخَذَ اَمْوَالَ النَّاسِ يُرِيْدُ اَدَاءَهَا اَدَّى اللّٰهُ عَنْهُ وَ مَنْ اَخَذَ يُرِيْدُ اِتْلَافَهَا اَتْلَفَهُ اللّٰهُ عَلَيْهِ.

(رواه البخاری)

(1745/29) Abu Hurayrah ؓ narrated that the Messenger of

Allah ﷺ said: "whoever borrows (money etc.,) from anyone and has the intention to return it, God will make it possible for him to pay it bak, i,e., help him to clear it up, and if he cannot do so in his life-time, God will settle it, on his behalf, in the Hereafter, and, thus, release him of the responsibility. And whoever borrows (money etc.,) from anyone and has no intention to pay it back, God will have it destroyed, i.e., the money will not only prove a curse in After-life, but, in this world, too, it will be of no help or comfort to him." (Bukhari)

(١٧٤٦/٣٠) عَنْ عِمْرَانَ بْنِ حُصَيْنٍ عَنْ مَيْمُوْنَةَ قَالَتْ سَمِعْتُ خَلِيْلِىْ وَ صَفِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ مَا مِنْ اَحَدٍ يُدَانُ دَيْنًا فَيَعْلَمُ اللّٰهُ اَنَّهُ يُرِيْدُ قَضَاءَ هُ اِلَّا اَدَّاهُ اللّٰهُ عَنْهُ فِى الدُّنْيَا. (رواه النسائى)

(1746/30) It is relted by Imran ibn Hussayn ﷺ, on the authority of Sayidah Maimoona رضى الله عنها, (wife of the sacred Prophet), that the Messenger of Allah ﷺ said: "Whoever takes a loan and it is in the knowledge of God that he has the intention of returning it, God will have it repaid in his life-time." (Nasai)

Commentary: It is, also, stated in the afore-mentioned narrative of Sayyidina Imran ibn Hussayn ﷺ that Sayyidah Maimoona رضى الله عنها used to borrow much and often, probably with the object of giving it away in charity. Her near relatives, thereupon, spoke to her about it, and advised her not to be so reckless, but she did not give up the habit, and, to her support, related the saying of the Holy Prophet ﷺ we have just seen. What Sayyidah Maimoona رضى الله عنها meant was that owing to it, she was confident that the Lord would have all the loans she took cleared up in her life-time. She placed an absolute reliance on the security and assurance of the Almighty, an such a conduct, of course, was worthy of a person of belief and trust in God like her.

(١٧٤٧/٣١) عَنْ عَبْدِاللّٰهِ بْنِ جَعْفَرٍ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اِنَّ اللّٰهَ مَعَ الدَّائِنِ حَتّٰى يَقْضِىَ دَيْنَهُ مَالَمْ يَكُنْ فِيْمَا يَكْرَهُ. (رواه ابن ماجة)

(1747/31) It is narrated by Abdullah ibn Jafar ibn Abi Talib ﷺ that the Messenger of Allah ﷺ said: "God is with the debtor until the debt is paid provided that it has not been taken for a

wrong purpose." (Ibn Majah)

Commentary: It shows that if a person takes a loan for a genuine need and a good and legitimate purpose, and he also sincerely desires to pay it back, there will be the special favour of the Lord on him until the debt is cleared up. It is, further, stated in *Ibn Majah*, in connection with the above report, that on its ground, the narrator, Sayyidina Abdullah ibn Jafar ﷺ, always used to remain in debt. He would say that he wished that none of his days and nights were spent without the good graces of the Lord. From the record of Sayyidina Abdullah ibn Jafar's ﷺ life it appears that he was a very generous-hearted person, and that was why he was always running in debts.

Practice of The Holy Prophet ﷺ

The Holy Prophet ﷺ, too, had the need to borrow which he often did. As we have seen in an earlier volume, he used to take a loan, also, from non-Muslims like the Jews. While on it, we had further indicated what great wisdom lay behind it. Here, we will be taking up two Traditions apperraining to it.

(١٧٤٨/٣٢) عَنْ جَابِرٍ قَالَ كَانَ لِىْ عَلَى النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ دَيْنٌ فَقَضٰى لِىْ وَزَادَنِىْ. (رواه ابو داؤد)

(1748/32) Sayyidina Jabir ﷺ narrated to us, saying, "I had advanced a loan to the Messenger of Allah ﷺ. When he returned it, he gave me more (than what I had lent)."

Commentary: For the debtor to give more than what was due at the time of the repayment of a loan is not only lawful, but also commendable, and in conformity with the pracitce of the Prophet ﷺ. It does not amount to interest because no such condition is agreed to at the time of borrowing. It is a favour and a gift.

It is among the practices of the sacred Prophet ﷺ that need be popularised.

(١٧٤٩/٣٣) عَنْ اَبِىْ هُرَيْرَةَ اَنَّ رَجُلًا تَقَاضٰى رَسُوْلَ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَاَغْلَظَ لَهٗ فَهَمَّ اَصْحَابُهٗ فَقَالَ دَعُوْهُ فَاِنَّ لِصَاحِبِ الْحَقِّ مَقَالًا وَاشْتَرُوْا لَهٗ بَعِيْرًا

فَاَعْطُوْهُ اِيَّاهُ قَالُوْا لَانَجِدُ اِلَّا اَفْضَلَ مِنْ سِنِّهٖ قَالَ اشْتَرُوْهُ فَاَعْطُوْهُ اِيَّاهُ فَاِنَّ
خَيْرَكُمْ اَحْسَنُكُمْ قَضَاءً. (رواه مسلم)

(1749/33) Abu Hurayrah ﷺ narrates "(once) a person demanded from the Messenger of Allah ﷺ the payment of a loan he had made to him and used strong language upon which the Companions ﷺ (present) thought of scolding him, but the Messenger of Allah ﷺ checked them, saying: "Leave him alone. Do not say anything to him for a man who has a claim has the right to talk in that manner. Go and buy a camel to repay the loan and give it to him.' On returning, the Companions ﷺ said that (a camel of the class of the animal the man had lent was not available). The only camel that could be had was better bigger than his camel. The Messenger of Allah ﷺ, thereupon, said: 'Buy it and give it to him for he is a better man who pays back better than what is due." (Muslim)

Commentary: In the olden days, it was common in Arabia to borrow a camel. The deal was settled not in terms of cash, but that the borrower would return a camel of the same age within a specified period. The Holy Prophet ﷺ had taken a camel from someone on the same terms, and, perhaps, the man had come to demand payment at the end of the stipulated time and had been rude which the Companions ﷺ wanted to rebuke him, but the Prophet ﷺ told them to keep quiet as he owed him a debt and the creditor was within his rights to be angry. The Prophet ﷺ, furhter, said to them to buy a camel of the same breed and age, and give it to him. The Companions ﷺ looked for such an animal, but it was not available while a better one was. The Prophet ﷺ, then, told them to buy and give it and added that a better man was he who paid more and of a superior quality than what was owed.

(١٧٥٠/٣٤)عَنْ عَبْدِاللهِ بْنِ اَبِىْ رَبِيْعَةَ قَالَ اِسْتَقْرَضَ مِنِّى النَّبِىُّ صَلَّى اللهُ عَلَيْهِ
وَسَلَّمَ اَرْبَعِيْنَ اَلْفًافَجَاءَ هٗ مَالٌ فَدَفَعَهٗ اِلَيَّ وَقَالَ بَارَكَ اللهُ تَعَالٰى فِىْ اَهْلِكَ
وَمَالِكَ اِنَّمَا جَزَاءُ السَّلَفِ الْحَمْدُ وَالْاَدَاءُ. (رواه النسائى)

(1750/34) Abdullah ibn Abi Rabi'ah ﷺ narrates "once the Prophet ﷺ had taken a loan of forty thousand from him. When (enough) money had come to the Prophet ﷺ, he returned it, and

blessed him saying: 'May Allah bestow abundance on your wealth and family. The recompense of a loan is that it should be repaid and the giver thanked and praised." (Nasai)

Commentary: As these Traditions show, the Holy Prophet ﷺ used to borrow money etc., and when it came to returning a loan, he gave better and more than what was due, and, also blessed the giver.

The above report, further, tells that the Prophet ﷺ, sometimes borrowed large sums of money. He would, obviously, have taken such loans for a religious need like *Jihad*, otherwise his own life-style, as well as of his family, was such that, in the word of Sayyidah Ayshah رضى الله عنها, they never ate even barely-bread to their satisfaction for two consecutive days, and often went without a meal, and the oven was not lighted in their homes for months during which they lived only on dates and water.

Usury

Usury was common among the Arabs, as it was in the other communities of the world. Its most pervalent form was that people, in their need, borrowed money, and it was settled, at the time of the transaction, that they would return it with such-and-such interest charge on its use, and within such-and-such time. If the borrower failed to repay it within the stipulated period, he begged for an extension, and the interest charge was increased in proportion to it. The load of the poor borrowers would, thus, go on multiplying, and the greedy money-lenders would be sucking their blood like a leech.

The practice, evidently, was opposed to the spirit of Islam. The teachings of Islam, on the contrary, require that help was given to the weak and the destitute, and care was taken of their needs, and that all this was done not for a worldly gain or advantage, but wholly for the sake of God and gaining the reward of the Hereafter.

Just as in the Quran and the saying of the Holy Prophet ﷺ, a gradual course was adopted towards the forbidding of alcholic drinks and other intoxicants, the abolition of usury, too, was enforced by degrees. For a long time, in the beginning, stress was laid, in a positive way, on spending one's wealth in the way of God and fulfilling the needs of the less fortunate brethren and bringing succour to them, and on cultivating the virtues of kindliness, compassion, generosity and self-denial. Slowly and steadily, it was instilled into the minds and hearts of the people that death was inevitable; they were bound to die one day, and their worldly possesions, too, were not everlasting, They should, therefore, take lesson from the dreadful end of the worshippers of wealth like Pharaon, and try earnestly to make use of their riches as a means to earning the eternal joy and felicity of the Hereafter.

This guidance and corresponding action paved the way for the total abolition of the heartless practice of lending money on interest. The concluding verses of *Surah Al-Baqarah*, i.e., from:

اَلَّذِيْنَ يَاْكُلُوْنَ الرِّبٰوا لَايَقُوْمُوْنَ اِلَّا كَمَا يَقُوْمُ الَّذِىْ يَتَخَبَّطُهُ الشَّيْطٰنُ مِنَ الْمَسِّ ط
ذٰلِكَ بِاَنَّهُمْ قَالُوْٓا اِنَّمَا الْبَيْعُ مِثْلُ الرِّبٰوا م وَاَحَلَّ اللّٰهُ الْبَيْعَ وَحَرَّمَ الرِّبٰوا ط
فَمَنْ جَآءَهٗ مَوْعِظَةٌ مِّنْ رَّبِّهٖ فَانْتَهٰى فَلَهٗ مَاسَلَفَ ط وَاَمْرُهٗٓ اِلَى اللّٰهِ ط وَمَنْ عَادَ
فَاُولٰٓئِكَ اَصْحٰبُ النَّارِ ج هُمْ فِيْهَا خٰلِدُوْنَ o يَمْحَقُ اللّٰهُ الرِّبٰوا وَيُرْبِى
الصَّدَقٰتِ ط وَاللّٰهُ لَايُحِبُّ كُلَّ كَفَّارٍ اَثِيْمٍ o اِنَّ الَّذِيْنَ اٰمَنُوْا وَعَمِلُوا الصّٰلِحٰتِ
وَاَقَامُوا الصَّلٰوةَ وَاٰتَوُا الزَّكٰوةَ لَهُمْ اَجْرُهُمْ عِنْدَ رَبِّهِمْ ج وَلَاخَوْفٌ عَلَيْهِمْ وَلَاهُمْ
يَحْزَنُوْنَ o يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوا اتَّقُوا اللّٰهَ وَذَرُوْا مَابَقِىَ مِنَ الرِّبٰٓوا اِنْ كُنْتُمْ
مُّؤْمِنِيْنَ o فَاِنْ لَّمْ تَفْعَلُوْا فَاْذَنُوْا بِحَرْبٍ مِّنَ اللّٰهِ وَرَسُوْلِهٖ وَاِنْ تُبْتُمْ فَلَكُمْ رُءُوْسُ
اَمْوَالِكُمْ ط لَا تَظْلِمُوْنَ وَلَا تُظْلَمُوْنَ o وَاِنْ كَانَ ذُوْعُسْرَةٍ فَنَظِرَةٌ اِلٰى مَيْسَرَةٍ ط
وَاَنْ تَصَدَّقُوْا خَيْرٌ لَّكُمْ اِنْ كُنْتُمْ تَعْلَمُوْنَ o (البقره ۲:۲۷۵-۲۸۰)

Those who devour Usury cannot rise except as he rises whom Satan has maddened by his touch. That is because they say, "Trade is just like usury." But Allah has permitted trading, and forbidden Usury, To whom so ever then an exhortation comes from his Lord and he desists, he shall have (the gains) of that which is past, and his affair rests with Allah. But whosoever reverts (to it) those are the Companions رضي الله عنهم of the Fire, therein they shall abide. Allah blots ant Usury and augments Charity. And Allah loves not any ungrateful sinner. Those who believe and do righteous deeds, and establish the *Salah*, and pay the *Zakah*, for them is their reward from their Lord, and no fear shall be on them, nor shall they grieve. O you who believe! Fear Allah and give up what remains from the Usury, if you are (true believers). And if you do it not, them be notified of war from Allah and His Messenger ﷺ; and if you repent, then you shall have your capital sums, not wronging (anyone) nor being wronged. But if the debtor is in difficulty, let there be respite till it is easy (for him). And if you remit it as a charity, that is better for you, if you but know. (Al Baqarah 2:275-280)

Were, consequently, revealed, proclaiming, in clearest terms, the forbidding of the lending and borowing of money etc., at interest.

In the above verses, also, it is made clear that if, as a result of a previous transaction, interest on a loan is due to anyone, it will be treated as defunct and will not be payable or recoverable after the commandment had been reveald:

The warning, further, is given, at the end, that if, after the revelation of these verses, people persisted in usury and transgressed against the law of God, they should consider themselves at war with Allah and His Messenger ﷺ:

فَأْذَنُوا بِحَرْبٍ مِّنَ اللّٰهِ وَرَسُوْلِهِ (البقره ٢:٢٧٩)

"And if ye do not, then be warned of war (against you) from Allah and His Messenger. (Al Baqarah 2:279)

Such a severe admonition has not been administered in the Qur'an in respect of any other major sin, such as, adultery, gambling, and murder. It denotes that usury is more repugnant in the sight of God and His Prophet ﷺ than all the other sins. As the Traditions given below will show, the Prophet ﷺ has condemned usury as a sin of the highest order and spelt the curse of God not only on those who take or offer loan on usurious terms, but, also, on those who write the deed of it or act as witnesses to the transaction. In some narratives, usury, in fact, has been characterised as seventy times a greater sin than adultery and fornication.

(١٧٥١/٣٥) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اِجْتَنِبُوْا السَّبْعَ الْمُوْبِقَاتِ قَالُوْا يَارَسُوْلَ اللّٰهِ وَمَا هُنَّ؟ قَالَ: اَلشِّرْكُ بِاللّٰهِ وَالسِّحْرُ وَ قَتْلُ النَّفْسِ الَّتِىْ حَرَّمَ اللّٰهُ اِلَّا بِالْحَقِّ وَأَكْلُ الرِّبَاو أَكْلُ مَالِ الْيَتِيْمِ وَالتَّوَلِّى يَوْمَ الزَّحْفِ وَقَذْفُ الْمُحْصَنَاتِ الْغَافِلَاتِ. (رواه البخارى و مسلم)

(1751/35) It is narrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "Keep (strictly) away from the seven moral sins." 'What are the seven sins?" the Companions ﷺ asked. "To partner anyone with God (in worship, in His attributes. and in His Functions); to practise sorcery; to kill person unlawfully; to lend money on usurious terms; to eat of the property of an

orphan; to desert the Muslim army and run away from *Jihad* (for fear of life); and to accuse falsely pious and innocent bondsmen of the Lord of adultery," the Prophet ﷺ replied."

(Bukhari and Muslim)

Commentary: The seven sins mentioned in it are the worst forms of evildoing. The Holy Prophet ﷺ has described them as *Mubaqat*, i.e., fatal to the spirit of his faith, and specified usury as next to Polytheism, witchcraft and murder. As the physicians tell about the properties of herbs, minerals and foods, on the basis of their knowledge and experience, so do the Prophets عليهم السلام inform concerning the effects and properties of beliefs, moral deeds of men on the basis of the knowledge vouchsafed to them by God, with the difference that while there is the possibility of an error in the knowledge or judgement of the physicians, what the Prophets عليهم السلام tell is beyond the shadow of a doubt or fallacy, at least for men of faith, for the simple reason that it stems from Divine Revelation. But, strengely enought, although people follow the advice of the physicians and take the medicines prescribed by them without questions, no patient can justifiably insist upon knowing the pharmacology of the medicine before using it, when the Book of God, the Qur'an, and His Messenger ﷺ inform about a thing like usury that it is a grievous sin and ruinous to the soul and a fearful punishment awaits them in the Hereafter who lend money on interest, many a claimant to Faith and intellect are reluctant to believe and its philosophy must be explained to them before they are convinced.

(١٧٥٢/٣٦) عَنْ اَبِیْ هُرَیْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّی اللهُ عَلَیْهِ وَسَلَّمَ اَتَیْتُ لَیْلَةَ اُسْرِیَ بِیْ عَلٰی قَوْمٍ بُطُوْنُهُمْ كَالْبُیُوْتِ فِیْهَا الْحَیَّاتُ تُرٰی مِنْ خَارِجِ بُطُوْنِهِمْ فَقُلْتُ مَنْ هٰؤُلَاءِ یَا جِبْرَئِیْلُ؟ قَالَ هٰؤُلَاءِ اَكَلَةُ الرِّبوا.

(رواه احمد و ابن ماجة)

(1752/36) It is narrated by Abu Hurayrah رضي الله عنه that the Messenger of Allah ﷺ said: "The night I was taken on the (Calestial) Journey, I passed by a group (of persons) whose bellies were like houses full of snakes, and the snakes could be seen from outside. I enquired about them from Jibreel عليه السلام and he said that hey were the usurers." (Musnad Ahamd and Ibn Majah)

Commentary: On the night of the Prophet's عليهم السلام ascension to Heaven, he was shown many things that belonged to the Invisible World, including some glimpses and objects of Heaven and Hell in order that from *Haqqul Yaqeen* (certainly relating to truth) he attained the stage of *Ainul Yaqeen* (certainly relating to seeing could), and, also instruct and inform the people with regard to Divine reward and punishment in the light of personal observation. Among these was the scene described in the Tradition that owing to the extraordinary pains they took, we, too, have come to know, through authentic compilations, of the supernal experiences of the Prophet ﷺ during the Journey by Night.

(١٧٥٣/٣٧) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَلرِّبوا سَبْعُوْنَ جُزْاءً اَيْسَرُهَا اَنْ يَّنْكِحَ الرَّجُلُ اُمَّهُ.

(رواه ابن ماجه' والبهيقى فى شعب الايمان)

(1753/37) It is narrated by Abu Hurayrah ؓ that Messenger of Allah ﷺ said: "There are seventy parts of usury. Of them a most ordinary part is like committin incest on one's own mother." (Ibn Majah and Baihaqi)

Commentary: As alaready stated, in the Arabic idiom and the language of the Quran and the Traditions, the word 'seventy', often, denotes the abundance of a thing, and not the exact number. Anyway, what the above Tradition seeks to emphasise is that usury is a more detestable crime than committing incest to one's own mother.

(١٧٥٤/٣٨) عَنْ جَابِرٍ قَالَ لَعَنَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اٰكِلَ الرِّبٰوَا وَ مُوْكِلَهٗ وَكَاتِبَهٗ وَ شَاهِدَيْهِ وَ قَالَ هُمْ سَوَاءٌ. (رواه مسلم)

(1754/38) Sayyidina Jabir ؓ narrated to us, "the Prophet ﷺ cursed him who lends money on interest, and him who recieves it, and him who writes the deed thereof, and those who are witnesses to the transaction, and said that (they) all are equal partners to the sin." (Muslim)

Commentary: It tells that usury is such a grave sin that all those who are associated with it in any way are doomed to the eternal punishment of the Hereafter, and the curse rest equally on the

borrower, the writer of the deed and the witnesses thereof.

(١٧٥٥/٣٩) عَنْ اَنَسٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِذَا اَقْرَضَ اَحَدُكُمْ قَرْضًا فَاَهْدٰى اِلَيْهِ اَوْحَمَلَهُ عَلَى الدَّابَّةِ فَلَا يَرْكَبْهُ وَلَايَقْبَلْهَا اِلَّا اَنْ يَكُوْنَ جَرٰى بَيْنَهُ وَ بَيْنَهُ قَبْلَ ذَالِكَ. (رواه ابن ماجه والبهيقى فى شعب الايمان)

(1755/39) It is narrated by Sayyidina Anas ﷺ that the Messenger of Allah ﷺ said: 'Whoever of you gives a loan to anyone and the borrower gives him something as a gift or offers him an animal to ride, he should not accept the gift or use the animal for riding except that there have been such relations between them from earlier days." (Ibn Majah and Baihaqi)

Commentary: Meaning usury is so hinous in its cosequences that one should be careful to avoid a situation bearing even a trace of it. When a person gives a loan to anyone, he should refrain from recieving the least worldly gain or advantage from him and allow not even a suspicion of it to come near himself.

(١٧٥٦/٤٠) عَنْ عُمَرَ بْنِ الْخَطَّابِ اَنَّ اٰخِرَمَا نَزَلَتْ اٰيَةُ الرِّبوا وَاِنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قُبِضَ وَلَمْ يُفَسِّرْهَا لَنَا فَدَعُوْا لرِّبوٰا وَالرِّيْبَةَ.

(رواه ابن ماجة والدارمى)

(1756/40) It is narrated on the authority of Umar ibn Al-Khattab ﷺ who said: "The verse of usury, i.e., the verse of *Surah Al-Baqarah* forbidding usury is among the verses which were revealed during the last phase (of the Holy Prophet's ﷺ life). The Messenger of Allah ﷺ departed from the world without explaining fully its implications to us. So give up usury altogether and guard yourselves even against a trace or suspicion of it." (Ibn Majah and Daarami)

Commentary: The word Riba, which has been used in the text of the above Tradition for usury was current in the Arabic language before the revelation of the Qur'an, and carried the same meaning as we have stated in the introductory lines. Thus, when the verse relating to it was revealed, it was believed that the pracitce of lending money on interest had been forbidden There was no question of a doubt or confusion with regard to it. But in some of his sayings we shall be discusing later, the Holy Prophet ﷺ

expressed the view about certain forms of trade which were not considered objectionable that too, amounted to usury. He, however, did not explain the various implications of it, but as the philosophy of the *Shariah* would demand, furnished on the doctrinal guidance and left it to the jurists to work out the details. The same is the case with all the heads and sections of the *Shariah*. But Sayyidina Umar who was among the leading Jurist of the *Ummah*, was so over awed by the warnings of punishment on usury that he felt it would have been better had the Prophet enunciated the details of the commandment as well, and not left it to the jurists to decide on their own. It was on account of this extremely God-fearing and cautious attitude that Sayyidina Umar remarked that the better and wiser course for Believers was that they kept strictly aloof from every thing which bore the least suggestion of usury. The irony of fate, however, is that some intellectuals of our times who claim for themselves the right to interpret the *Shariah* on the basis of *Ijtehad*[1], conclude, from the above utterance of Sayyidina Umar, that the position of usury is vogue and uncertain, and, from it, proceed to justify various forms of it that are in vogue today.

(١٧٥٧/٤١) عَنْ اِبْنِ مَسْعُوْدٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ الرِّبَا وَ اِنْ كَثُرَ فَاِنَّ عَاقِبَتَهٗ تَصِيْرُ اِلٰى قُلٍّ.

(رواه احمد، و ابن ماجه والبيهقي في شعب الايمان)

(1757/41) It is narrated by Abdullah ibn Mas'ud that the Messenger of Allah said: " However plentiful the interest may be, its end is want and scarcity."

(Musnad Ahmad, Ibn Majah and Baihaqi)

Commentary: If the word *'Aaqibatahu'* (عَاقِبَتَهٗ) occuring in the original is taken to mean the ultimate end of the Hereafter, no believing person can have a doubt concerning it for the Hereafter everyone will see with his own eyes that the people who had made immense gains through usury will rise as paupers on the Last Day and the wealth they had so acquired will prove curse for them, as set forth in the Qur'an and the Traditions. Should, however, the Tradition be supposed to signify that however much a person may

[1]. The word literally means 'to exert.' In the Islamic theological usage it denotes to exert with a view to forming an independent judgement on a legal question.

add to his wealth through usury, it will, ultimately, avail him nothing and he will end up in poverty, the superificial observers may find it hard to believe but those who are capable of taking a deeper view of things will understand. Insatances are not wanting of people accumulating a lot of wealth throug usurious means, and, then, the whole wealth evaporating, as one would say, into thin air through a sudden turn of events, in their own lifetime or after death. It is also a common experience that people who live on usury seldom enjoy real peace and happiness which is the chief advantage of being wealthy. It will, as such, not be incorrect to say that a man who acquires wealth by money-lending is, virtually, a pauper, all his worldly possesions notwithstanding. Says the Qur'an:

يَمْحَقُ اللّٰهُ الرِّبٰوا (البقرة ٢:٢٧٦)

"Allah blots out usury (Al Baqarah 2:276)

(١٧٥٨/٤٢) عَنْ اَبِىْ هُرَيْرَةَ عَنْ رَسُوْلِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ لَيَاتِيَنَّ عَلَى النَّاسِ زَمَانٌ لَا يَبْقٰى اَحَدٌ اِلَّا اٰكِلَ الرِّبَا فَاِنْ لَمْ يَاْكُلْهُ اَصَابَهٗ مِنْ بُخَارِهٖ (وَيُروىٰ مِنْ غُبَارِهٖ) (رواه احمد و ابو داؤد والنسائى و ابن ماجة)

(1758/42) Abu Hurayrah ﷺ narrated that the Messenger of Allah ﷺ said: "A time will come when everyone will be a usurer. (No one will be safe from usury). If a person will not be taking or recieving it himself, its dirt will, surely, be reaching inside his body." (Musnad Ahmad, Abu dawood, Nasai and Ibn Majah)

Commentray: Its prupose is not merely to make a prediction, but to warn the *Ummah* that there will come a time when the practice of usury will become so common that no one will remain safe from it. The Believers and men of piety should, therefore, be vigilant. Our own times are no different, and even persons who consider usury a sin and abstain from it buy their provisions from shop-keepers who, directly or indirectly, are connected with the business of money-lending. In fact, it is particularly impossible, now-a-days, to keep any business free from the effects of usury.

Miscellaneous

(١٧٥٩/٤٣) عَنْ عُبَادَةَ بْنِ الصَّامِتِ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَلذَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالْبُرُّ. بِالْبُرِّوَا لشَّعِيْرُ بِالشَّعِيْرِوَالتَّمْرُ بِالتَّمْرِ وَالْمِلْحُ بِالْمِلْحِ مِثْلًا بِمِثْلٍ سَوَاءً بِسَوَاءٍ يَدًا بِيَدٍ فَإِذَااخْتَلَفَتْ هٰذِهِ الْاَجْنَاسُ نَبِيْعُوْا كَيْفَ شِئْتُمْ اِذَا كَانَ يَدًا بِيَدٍ. (رواه مسلم)

(1759/43) It is narrated by Ubadah ibn Saamit ﷺ that the Messenger of Allah ﷺ said: "The sale of gold in exchange for gold, and of silver in exchange of silver, and of wheat in exchange for wheat, and of barley in exchange for barley, and of dateș in exchange for dates, and of salt in exchange for salt should be equal and alike, and from hand to hand, but when the commodities are different, you can sell them as you like provided that the transaction is from hand to hand, i.e., straight and expeditious." (Muslim)

(١٧٦٠/٤٤) عَنْ اَبِىْ سَعِيْدٍ الْخُدْرِىِّ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَلذَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالْبُرُّ بِالْبُرِّ وَالشَّعِيْرُ بِالشَّعِيْرِ وَالتَّمرُ بِالتَّمْرِ وَالْمِلْحُ بِالْمِلْحِ مِثْلًا بِمِثْلٍ يَدًا بِيَدٍ فَمَنْ زَادَ اَوِاسْتَزَادَ فَقَدْ اَرْبٰى اَلْآخِذُ وَالْمُعْطِىْ فِيْهِ سَوَاءٌ. (رواه مسلم)

(1760/44) It is narrated by Abu Saeed Khudri ﷺ that the Messenger of Allah ﷺ said: "Gold in return for gold, silver in return for sliver, wheat in return for wheat, barley in return for barley, dates in return for dates, and salt in return for salt should be bought and sold at par with each other. Whoever paid or demanded more carried out a usurious transaction. Both the buyer and the seller, the one who gives and the one who recieves, are equal in this respect." (Muslim)

Commentary: Traditions having the same meaning have, also, been related by Sayyidina Umar, Sayyidina Ubaidullah ibn Saamit, Sayyidina Abu Bakr, Sayyidina Abu Hurayrah and many other Companions رضى الله عنهما.

In the above narrative, it is told that if any of the six commodities mentioned in it, gold, sliver, wheat, barley dates and salt, is sold in return for the same commodity, as for instance,

wheat is exchanged for wheat, the transaction will be fair and lawful if it is equal in measure, value and quality, and conducted from hand to hand. If, however, what is exchanged is of a greater or lesser weight or value or the business deal is not carried out from hand to hand, but by way of borrowing and lending then it will be a usurious transaction and both the parties will be guilty of usury.

The sum and substance of the comments offered on Traditions by Shah Waliullah رحمة الله عليه, in *Hujjatillah-il Baligha*, is that the form of usury practised in Arabia during the time of the Holy Prophet ﷺ and even earlier, and for which the term, Riba was used was that people, in their need, borrowed money from those who did the business.of lending on interest and it was settled at the time of the transaction that they would return it within a fixed period, alongwith the agreed interest charge and if it could not be paid back on time, they obtained a respite and agreed to pay an additional amount. This was the Riba that was directly forbidden by the Qur'an. Later, at the behest of Allah, the Prophet ﷺ included some other kinds of business deals too, in the sphere of application of the Commandment concerning usury, and enjoined upon the *Ummah* to abstain from them as well. The Traditions, we have jsut seen contain the same promulgation, and their purport is that if any commodity among the six mentioned therein is exchanged for the same commodity, it should be of an equal weight and quality, and the transaction carried out from hand to hand, otherwise it will be a usurious deal and both the parties will stand condemned before Allah.

Only six articles are mentioned in these Traditions, but the Jurists are almost unanimous on the point that other articles belonging to the same catagory, too, are covered by the Commandment although there is some difference in their views on matters of detail.

(١٧٦١/٤٥) عَنْ اَبِىْ سَعِيْدٍ قَالَ جَاءَ بِلَالٌ اِلَى النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ بِتَمَرٍ بَرْنِيٍّ فَقَالَ النَّبِىُّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ مِنْ اَيْنَ هٰذَا؟ قَالَ كَانَ عِنْدَنَا تَمَرٌ رَدِىٌّ فَبِعْتُ مِنْ صَاعَيْنِ بِصَاعٍ فَقَالَ اَوَّهُ عَيْنُ الرِّبَا لَا تَفْعَلْ وَلٰكِنْ اِذَا اَرَدْتَّ

اَنْ تَشْتَرِىَ فَبِعِ التَّمَرَ بِبَيْعٍ آخَرَ ثُمَّ اشْتَرِبِهٖ. (رواه البخارى و مسلم)

(1761/45) Sayyidina Abu Saeed Khudri ﷺ narrates that once Bilal ﷺ brought some high quality dates for the Messenger of Allah ﷺ. The Prophet ﷺ enquired how he had come to possess them upon which Bilal ﷺ said that he had exchanged Sa'as[1], of poor quality dates for 1 *Sa'a* of the finer ones. "Ah," the Prophet ﷺ exclaimed." It is pure usury. When you want to buy dates (with dates), first sell your dates, and, then, buy the other dates with the money you, thus, obtain."

(Bukhari and Muslim)

Commentary: Sayyidina Bilal ﷺ would, certainly, not have been unaware that Riba had been forbidden by God, but he did not know that the manner of his buying the dates, too, was a usurious practice. He thought that only the taking or giving of a loan on interest was usury. But the Prophet ﷺ explained to him that the exchange of the dates on unequal terms also was similar. According to Shah Waliullah رحمة الله عليه, *Riba* relating to a loan is real *Riba* while what has been described as such in the narratives of Sayyidina Saeed Khudri ﷺ etc., is equivalent in significance to it.

(١٧٦٢/٤٦) عَنْ عَطَاءِ بْنِ يَسَارٍ اَنَّ مُعَاوِيَةَ بَاعَ سِقَايَةً مِنْ ذَهَبٍ اَوْ وَرَقٍ بِاَكْثَرَ مِنْ وَزْنِهَا فَقَالَ اَبُوالدَّرْدَاءِ سَمِعْتُ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَنْهٰى عَنْ مِثْلِ هٰذَا اِلَّا مِثْلًا بِمِثْلٍ فَقَالَ لَهٗ مَعَاوِيَةُ مَا اَرٰى بِمِثْلِ هٰذَا بَاسًا فَقَالَ اَبُوالدَّرْدَاءِ مَنْ يُعْذِرُلِىْ مِنْ مُعَاوِيَةَ اَنَا اُخْبِرُهٗ عَنْ رَسُوْلِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ وَهُوَ يُخْبِرُ نِىْ عَنْ رَايِهٖ لَا اُسَاكِنُكَ بِاَرْضٍ اَنْتَ بِهَا ثُمَّ قَدِمَ اَبُوالدَّرْدَاءِ عَلٰى عُمَرَ فَذَكَرَ لَهٗ ذَالِكَ فَكَتَبَ عُمَرُ اِلٰى مُعَاوِيَةَ اَنْ لَا تَبِعْ ذَالِكَ اِلَّا مِثْلًا بِمِثْلٍ وَزْنًا بِوَزْنٍ. (رواه مالک فى الموطا والنسائى فى سننه)

(1762/46) Ata ibn Yasaar (Tabi'ee) narrates that once Mu'awiya ﷺ, sold a cup (or jug) of gold (or silver) in return of the same metal of a greater weight. Upon it, Abu Darda ﷺ told him that he had heard the Messenger of Allah ﷺ forbidding a sale like that except that the articles exchanged were of an equal wieght. But Mua'wiya ﷺ said that he saw nothing wrong or sinful in

[1]. A measure of five pints and a third used for measuring corn etc.

what he had done. (With great sorrow), Abu Darda ﷺ, observed that, "I should be considered helpless where Muawiya ﷺ is concerned. I told him what the Prophet ﷺ has commanded, and he told me what he thinks." Abu Darda ﷺ, afterwards, told Muawiya ﷺ that "I will not live in the territory in which you live." He, (thus), came to Umar ﷺ in Madinah and narrated the whole matter to him upon which Umar ﷺ wrote to Muawiya ﷺ to keep clear of such deals. the exchange of gold, silver etc., for the same goods or articles was permissible only when both the things were of an equal weight.

(Malik and Nasai)

Commentary: Sayyidina Muawiya ﷺ was the Governer of Sirya during the Caliphate of Sayyidina Umar ﷺ, and Sayyidina Abu Darda ﷺ, also lived there. It was in those days that Sayyidina Muawiya ﷺ sold a drinking vessel of gold or silver in exchange for the metal it was made of, though the metal weighed a little more than the vessel, but he thought that there was no harm in it. Sayyidina Abu Abu Darda ﷺ, thereupon, told him that the Holy Prophet ﷺ had forbidden such a deal and commanded that if the same metal, the two should be of an equal weight, neither more nor less.Sayyidina Muawiya ﷺ, perhaps, was under the impression that if an article — a vessel or an ornament — made of gold or silver was sold, it would not be unfair to charge at a higher price, taking into consideration the cost of manufacture. That was why, he remarked that he saw nothing wrong and unlawful in the transaction. Sayyidina Abu Darda ﷺ, however, was extremely shocked at it as he believed that there was no question of one's own view or judgement in what he had heard from the Prophet ﷺ. Anyway, he left Sirya for good, and came to Madinah where he related the incident to Sayyidina Umar ﷺ. Sayyidina Umar ﷺ, then, wrote to Sayyidina Muawiya ﷺ that the correct position was what Sayyidina Abu Darda ﷺ had stated, and, therefore, no such deals could be permitted.

It shows how firm and uncompromising the holy Companions ﷺ were in their attitude even on the second category of *Riba*. They were not ready to tolerate even the least deviation or error of judgement in that regard.

BUYING AND SELLING

A Fruit-Crop Should Neither be Sold Nor Bought Until it is Ready

(١٧٦٣/٤٧) عَنْ عَبْدِاللهِ بْنِ عُمَرَ قَالَ نَهٰى رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الثِّمَارِ حَتّٰى يَبْدُ صَلَاحُهَا نَهَى الْبَائِعَ وَالْمُشْتَرِىْ (رواه البخارى ومسلم)
وَفِىْ رَوَايَةٍ لِمُسْلِمٍ نَهٰى عَنْ بَيْعِ النَّخْلِ حَتّٰى تَزْهُوْ وَعَنِ السُّنْبُلِ حَتّٰى يَبْيَضَّ وَيَامَنَ الْعَاهَةَ

(1763/48) It is narrated by Abdullah ibn Umar ﷺ "The Messenger of Allah ﷺ forbade the selling of a fruit-crop until the fruit had begun to ripen. He forbade both the seller and the buyer." (Bukahri and Muslim)

(In another version of it, appearing in *Sahih Muslim*, it is stated that the Messenger of Allah ﷺ forbade the selling of the crop of dates until the dates had begun to turn red, and the selling of spikes of corn until the spikes had begun to turn white, and there remained on danger of their destruction).

Commentary: Just as in our country, the mango-crop is, often, sold much before it is ready, in Madinah and other cultivable parts of Arabia too, the corps of dates or grapes were sold before the fruit had begun to mature, and likewise, the standing crops of grain were sold before the grain had ripened. The Holy Prophet ﷺ forbade it because it was quite possible that, after the transaction, the crop was destroyed owing to a natural Alamity, like a squall or hailstorm, and the poor buyer was put to serious loss. A quarrel could moreover arise in such a situation between the buyer and the seller over the payment of dues. Hence, the Holy Prophet ﷺ has enjoined his followers not to be a party to such deals.

(١٧٦٤/٤٨) عَنْ اَنَسٍ قَالَ نَهٰى رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ

الثِّمَارِ حَتّٰى تَزهِيَ، قِيْلَ وَمَا تَزْهِيَ؟ قَالَ حَتّٰى يَحْمَرَّ، وَقَالَ اَرَأَيْتُ اِذَا مَنَعَ اللّٰهُ
الثَّمْرَةَ بِمَا يَاخُذُ اَحَدُكُمْ مَالَ اَخِيْهِ. (رواه البخارى ومسلم)

(1764/48) It is narrated by Anas ﷺ "The Messenger of Allah ﷺ forbade the selling of fruits until lusture appears over the fruits, the Prophet ﷺ replied that it meant that the fruits had begun to turn red.[1] The Messenger of Allah ﷺ, (then), observed: 'Tell me, in return for what will the seller realise the dues from his brother, (the buyer), if the Lord withheld the fruits, i.e., the crop was destroyed, by the Command of Allah, before it was ready for the market?' (Bukhari and Muslim)

Commentary: According to authorities, the owner or seller of the grove should forego the price altogether if the whole of the crop was destroyed and return the money he might have recieved in advance. If however, the loss has been partial an appropriate allowance should be mde for it. The aim and object of these allowances should be made for it. The aim and object of these regulations is give due regard to eachother's interest and all business transatctions were carried out in a spirit of good will and compassion.

(١٧٦٥/٤٩) عَنْ جَابِرٍ قَالَ نَهٰى رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ
السِّنِيْنَ وَاَمَرَ بِوَضْعِ الْجَوائِح. (رواه مسلم)

(1765/49) It is narrated by Sayyidina Anas ﷺ "The Messenger of Allah ﷺ forbade the sale of (the crop) of graps until the grapes had begun to turn black, and of a standing agricultural crop until the grains had become hard and were ready to be harvested." (Tirmizi)

Commentary: Perhaps, during the days of the Holy Prophet ﷺ only the grapes that turned black on maturing were grown in Madinah. That was why, he forbade the sale of the crop of dates until the fruit had started turning black. Now, both the white and black varities of grapes are produced over there in abundance.

Together with grapes, the command has also been given in it about the standing crops of agriculrural field that these should not be sold before the crop was ready for harvesting.

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[1]. The colour of the dates becomes pinkish when they begin to ripen.

Crops of Fruit Orchards Should Not be Given on Contract for a Number of Years

(١٧٦٦/٥٠) عَنْ جَابِرٍ قَالَ نَهٰى رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ السِّنِيْنَ وَاَمَرَ بِوَضْعِ الْجَوائِحِ. (رواه مسلم)

(1766/50) It is narrated by Jabir ﷺ "The Messenger of Allah ﷺ forbade the sale of the crop of orchards for some years, and he told that allowance be made for loss suffered through a sudden calamity." (Muslim)

Commentary: To sell the crop of orchards for a number of years has been forbidden because no one could tell whether the crop would be good or bad during that period of time, or if it would endure or affacted by a natural disaster. It would, infact, be more in the nature of a gamble which apart from being an evil in itself, could , also give rise to other difficulties and problems.

Another commandment contained in the above Tradition is that the owner of orchard ought to make suitable reduction in the price if the crop was adversely affacted by an unforeseen happenings.

An Article Which is Not In One's Possession at The Time of The Deal Should Not be Sold

Sometimes, a trader has not an article in his possession or stock, but he settles the deal concerining it in the hope that he will buy it and supply. The Holy Prophet ﷺ has forbiden such a transaction for it is quite possible that the article was not available at that time, and even if it was, the buyer might not like it.

(١٧٦٧/٥١) عَنْ حَكِيْمِ بْنِ حِزَامٍ قَالَ نَهَانِىْ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَنْ اَبِيْعَ مَالَيْسَ عِنْدِىْ. (رواه الترمذى)

(1767/51) It is narrated by Hakeen ibn Hizam "The Messenger of Allah ﷺ forbade me from entering into a deal with anyone for something that was not in my possession (at that time)." (Tirmizi)

Commentary: The narrator, Hakeem ibn Hizam, was a wealthy merchant. It is reported in *Sunan Nassai* and *Sunan Abu Dawood*

that, once, he asked the Messenger of Allah ﷺ about the legitimacy of the practice that, sometimes, as a person came to him to buy something which was not in his stock, he settled the deal with him and supplied the article by producing it from the market. The Prophet ﷺ, observed, "Do not sell a thing which is not in your possession."

If Grain etc., is Bought, it Should Not be Sold Until Delivery Has Been Taken of it

(١٧٦٨/٥٢) عَنْ عَبْدِاللهِ بْنِ عُمَرَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنِ ابْتَاعَ طَعَامًا فَلَا يَبِعْهُ حَتّٰى يَسْتَوْفِيَهُ. (رواه البخارى و مسلم)

(1768/52) Abdullah ibn Umar ؓ narrated to us, saying that the Messenger of Allah ﷺ said: "Whoever buys grains should not sell it to anyone until it had come into his possession." (Bukhari)

Commentary: Though only grains is mentioned in it, it includes all moveable goods.

Forbidding Buying and Selling With A Man Who is in Extreme Need

Sometimes, a person is compelled to sell his property out of extreme need or anything in distressing circumstance. The buyer, in such a case, can exploit his need and make an unfair profit from the deal. Such a transaction has been called *Ba'iMuztar*[1] in this Tradition, and it has been forbidden.

(١٧٦٩/٥٣) عَنْ عَلِيٍّ قَالَ نَهٰى رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْمُضْطَرِّ وَعَنْ بَيْعِ الْغَرَرِ وَعَنْ بَيْعِ الثَّمْرَةِ قَبْلَ اَنْ تُدْرِكَ (رواه ابو داؤد)

(1769/53) It is narrated by Sayyidina Ali ؓ that the Messenger of Allah ﷺ "forbade buying and selling with a person who was in dire need or difficulites, and he forbade the selling of an article the availability of which was not certain, and of fruit before it was ready for harvesting." (Abu Dawood)

Commentary: What is emphasised is that the need of a person made desperate by poverty should not be put unfairly to advantage. On the contrry, he should be helped. The other thing which it tells

❶ . Selling by a person reduced to need or necessity.

is that an article like a bird or deer in the forest or fish in the pond ought not to be sold in the hope that one will catch and supply it for it is neither in the possession of the seller nor is its availability assured, and further, a difference can also arise over he quality of the thing. 'As for the selling of a fruit-crop before the fruit had ripened, we have already discussed it.

Warning Against Concealing The Defect of a Commodity Offred for Sale

(١٧٧٠/٥٤) عَنْ اَبِىْ هُرَيْرَةَ اَنَّ رَسُوْلَ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ مَرَّعَلٰى صُبْرَةِ طَعَامٍ فَاَدْخَلَ يَدَهٗ فِيْهَا فَنَالَتْ اَصَابِعُهٗ بَلَلًا فَقَالَ مَا هٰذَا يَاصَاحِبَ الطَّعَامِ؟ فَقَالَ اَصَابَتْهُ السَّمَاءُ يَارَسُوْلَ اللّٰهِ ! قَالَ اَفَلَا جَعَلْتَهٗ فَوْقَ الطَّعَامِ حَتّٰى يَرَاهُ النَّاسُ، مَنْ غَشَّ فَلَيْسَ مِنَّا. (رواه مسلم)

(1770/54) Abu Hurayrah ﷺ narrates "the Messenger of Allah ﷺ, once happened to pass by a heap of corn (which belonged to a trader). The Messenger of Allah ﷺ thrust his hand into it and his finger felt wetness. On being asked, the trader replied that rain had fallen upon it. (So, he had placed the wet corn that was on the top under the dry corn), The Messenger of Allah ﷺ, thereupon, observed: 'Why did you not let the wet corn remain on the top so that the buyers could see it? (Listen), he who deceives is not from us." (Muslim)

Commentary: Another version of the same incident quoted by Tabarani in *Mo'jam Kabeer-wa-Sagheer*, on the authority of Ibn Mas'ud ﷺ has it that the Messenger of Allah ﷺ, lastly, said: "The sequel of such deceit is Hell."

(١٧٧١/٥٥) عَنْ وَاثِلَةَ بْنِ الْاَسْقَعِ قَالَ سَمِعْتُ رَسُوْلَ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ مَنْ بَاعَ عِيْبًا وَلَمْ يُنَبِّهْ لَمْ يَزَلْ فِىْ مَقْتِ اللّٰهِ اَوْلَمْ تَزَلِ الْمَلٰئِكَةُ تَلْعَنُهٗ. (رواه ابن ماجه)

(1771/55) Wasila ibn Asqa ﷺ narrates "I myself heard the Messenger of Allah ﷺ say: "Whoever sold a defective thing to anyone without disclosing the defect to the buyer would be cought, permanently, in the wrath of God.' (Or was it) (that) 'he would always be cursed by the Angels?" (Ibn Majah)

Commentary: Sometimes, a narrator is not sure of the exact words spoken by the Holy Prophet ﷺ, and by way of caution, he indicates his lack of certainty while relating the event. In the above Tradition, too, Hazrat Wasila ibn al-Arqam ؓ was caught in two minds and could not decide whether the Prophet ﷺ had said about the deceitful seller that "he would be caught, permanently, in the wrath of God," or that "he would always be cursed by the Angels."

Undue Advantage Should Not be Taken of The Ignorance of The Buyer or Seller

(١٧٧٢/٥٦) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَا تَلَقُّوا الْجَلَبَ فَمَنْ تَلَقَّاهُ فَاشْتَرٰى مِنْهُ فَاِذَا اَتٰى سَيِّدُهُ السُّوْقَ فَهُوَ بِالْخِيَارِ (رواه مسلم)

(1772/56) It is narrated by Abu Hurayrah ؓ that the Messenger of Allah ﷺ said: "Do not go forward and meet the caravan carrying grain etc., (for trade), (before it had reached the market-place). The trader who went ahead and bought the goods in the way, the owner would, then, have the right to cancel the deal, (if he wished), on reaching the market." (Muslim)

Commentary: It was common, in those days, for people to bring the articles of trade from the outlying areas to the towns for selling them in the market. They used to travel in groups, both large and small, and were called *Jalab*. Clever trader would go on and settle the deal much before the caravan had arrived at the maket-place. This practice, evidently, was not to the advantage of the sellers because they could, thereby, be cheated into selling the goods at a lower rate owing to the ignorance of the price current in the market. Another disadvantage was that all the grain and other articles of trade coming from outside went into the hands of skilful merchants and they sold them at a much higher rate to the ordinary consumers. Were the goods sold in the market, they would have fetched a better price and the consumers, too, would have got them at reasonable rates. It was for these reasons that the Holy Prophet ﷺ forbade the buying of goods on way, before they had reached the market, and, further, indicated that if anyone did that, the seller would be entitled to cancel the deal if, on reaching the market, he felt that he had been cheated.

(١٧٧٣/٥٧) عَنْ اَبِیْ هُرَيْرَةَ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا تَلَقُّوا الرُّكْبَانَ لِبَيْعٍ وَلَا يَبِعْ بَعْضُكُمْ عَلٰى بَيْعِ بَعْضٍ وَلَا تَنَاجَشُوْا وَلَا يَبِعْ حَاضِرٌ لِبَادٍ وَلَا تُصَرُّوا الْاِبِلَ وَالْغَنَمَ فَمَنِ ابْتَاعَهَا بَعْدَ ذَالِکَ فَهُوَ بِخَيْرِ النَّظْرَيْنِ بَعْدَ اِنْ يَّحْلِبَهَا اَنْ رَضِيَهَا اَمْسَكَهَا وَاِنْ سَخِطَهَا رَدَّهَا وَصَاعًا مِنْ تَمَرٍ

(رواه البخاری ومسلم)

(1773/57) It is narrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "Do not go forward and meet, (in the way), the caravans bringing grain etc., for sale; and none of you should interfere in the selling transaction of his brother by offering his own goods for sale; and do not try to raise the price of a commodity (by pretending to be a buyer); and the merchants of the towns must not store the goods of the bedouins with themselves for future sale; and do not keep the milk in the udder of a goat or she-camel intended for sale, and if a person buys such a goat or she-camel, he will be free to keep the animal or return it, as he likes, after milking it, and in case he returns it, he will give a *Sa'a* (— 4 Kilograms) of dates to the owner (along with it)." (Bukhari and Muslim)

Commentary: Among the instructions given in it, the first is what has, already, been stated in the preceding narrative, i.e., grain and other essential commodities should not be bought by traders from the caravans, bringing them from the countryside, before they had reached the market.

The next requires that if a person is buying an article from a shopkeeper, the other shopkeeper should not interfere in the transaction and try to persuade the customer to buy from him.

The third is concerinig the practice of raising the price of a commodity by posing as a buyer and offering a higher price, while a person was engaged in settling the deal with the seller, in order that the real buyer agreed to pay more.

The fourth instruction is that city merchants should not collect grain etc., brought by the village peasants or traders for selling, and keep them, for future sale when the prices will rise. The goods, on the other hand, should be sold when villagers bring them to the market so that artificial scarcity is not created and the prices do not soar. Moreover, when peasants or trader bringing the goods from

the countryside will get the price of their commodities promplty, they will be encouraged to bring in a fresh stock of goods, and, thus, the trade will flourish, and they will also earn more.

The fifth and the last instruction is that anyone who wanted to sell a milk cattle should not cease milking it for a time so that the buyer was decieved by the inflated size of the udders and agreed to buy it at a higher price.

The Tradition, further, tells that whoever bought such an animal will be within his rights to return it if he felt dissatisfied on milking it at his place. The buyer, in that case, will also give a *Sa'a* of dates to the owner.

In another version of the same narrative, quoted in Sahih Muslim, it is stated that animal ought to be returned within three days of the deal after which the buyer will forefeit the right, and also that a *Sa'a* of wheat or barely can be given in place of dates.

The object of the commandment requiring the buyer to give a *Sa'a* of dates, barely etc., alongwith the animal if he decides to return it, probably is that he kept the animal with him for a few days and made use of its milk, but he had also fed the animal during that time, and thus, the account was settled, but if anything was still left wanting, it should be made good in that way. Besides, it will be a consolation to the owner.

Selling By Auction

(١٧٧٤/٥٨) عَنْ اَنَسٍ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَاعَ حِلْسًا وَقَدُحًا فَقَالَ مَنْ يَّشْتَرِىْ هٰذَا الْحِلْسَ وَالْقَدَحَ فَقَالَ رَجُلٌ اٰخُذُهُمَا بِدِرْهَمٍ فَقَالَ النَّبِىُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ يَّزِيْدُ عَلٰى دِرْهَمٍ فَاَعْطَاهُ رَجُلٌ دِرْهَمَيْنِ فَبَاعَهُمَا مِنْهُ.

(رواه الترمذی و ابو داؤد و ابن ماجه)

(1774/58) Sayyidina Anas ﵁ narrates "(once) the Messenger of Allah ﷺ sold a piece of sacking, (used as a mat) and a cup in this way that (addressing those present), he said: 'Who wants to buy this mat and cup? (He should make the offer of price)'. Someone, then, said that he could take the two articles for a dirham. "Who is willing to pay more?' the Prophet ﷺ enquired. Another person, then, offered to pay two dirhams upon which the Prophet gave both the articles to him."

(Tirmizi, Abu dawood and Ibn Majah)

Commentary: It shows that auction is permitted by the *Shariat.* The event reffered to in the above Tradition has been described in detail, in *Sunan Abi Dawood* and *Sunan Ibn Majah.* It is stated that once an extremely poor Ansar Companion came to the Messenger of Allah, and after relating his misery, begged for something. The Holy Prophet ﷺ, on seeing that he was in a fit condition to work for a living, asked him if there was anything in his house. The Ansar said that he had only a piece of sacking, a part of which they used to cover themselves with and a part of which they spread on the ground to sleep on, and there was a cup from which they drank water. The Prophet ﷺ, thereupon, told him to bring the two things which he did. The Holy Prophet ﷺ, addressing the people who were present at that time, then, said, "These things are for sale. Who is going to buy them?" A Companion ؓ offered to buy the mat and the cup for one dirham. Upon it, the Holy Prophet ﷺ enquired if anyone was willing to make a bid of more then one dirham. (It is stated in *Abu Dawood* that the Messenger of Allah ﷺ said it twice or thrice). another Companion ؓ, then took out two dirhams from his pocket and placed them before the Prophet ﷺ. The Prophet ﷺ gave him the two articles, and handing over the dirhams to the Ansar said, "Buy some foodstuff for your family with one dirham, and an axe with the other, and bring it to me." The Ansar Companion ؓ did as he was told, and came back to the Prophet of Allah ﷺ with the axe. The Prophet ﷺ fixed a strong handle to it with his own hands, and said, "Take it, and go to the forest, and cut wood, and sell it, and do not let me see you for fifteen days." The Ansar, thus, went away, and fetched wood from the forest, and sold it as the Prophet ﷺ had told till he had earned ten dirhams with which he bought some cloth and foodgrains for his family, and then, went to the Messenger of Allah ﷺ. The Holy Prophet ﷺ, observed, "This earning by hard work is much better for you than stretching your hands before others, like a beggar, and rising on the Last Day with the mark of begging on your forehead."

The moral of the above Tradition is too obvious to need an explanation.

Hoarding and Excessive Profit Disallowed

The Holy Prophet ﷺ has strictly forbidden the hoarding of essential commodities with a view to creating conditions of sacrity in the market and selling the goods when the prices had risesn. It is called *Ihtikar*[1] in the Arabic language.

(١٧٧٥/٥٩)عَنْ مَعْمَرٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنِ احْتَكَرَ فَهُوَ خَاطِئٌ (رواه مسلم)

(1775/59) It is narrated by M'amar ibn Abdullah رضي الله عنه that the Messenger of Allah ﷺ said: "The trader who resorts to *Ihtikar*, i.e., stores up foodgrains and other necessities of life, waiting for a time of dearness, is a sinner." (Muslim)

(١٧٧٦/٦٠) عَنْ عُمَرَ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ الْجَالِبُ مَرْزُوْقٌ وَالْمُحْتَكِرُ مَلْعُوْنٌ. (رواه ابن ماجه والدارمی)

(1776/60) It is narrated by Umar رضي الله عنه that the Messenger of Allah ﷺ said: "The trader who brings grain etc., from the countryside and sells it in the market is *Marzooq*, i.e., God is responsible for his subsistence, while *Mohtakir*, i.e., one who buys grain etc., and withoolds it in order that it may become scares and dear is accursed of God." (Ibn Majah and Daarami)

Commentary: The guiding principle of the *Shariah* in the economic field is that the common man should be able to live in reasonable comfort and security. The wealthier class, on their part, should, for the sake of God, pay greater attention to the welfare of the less fortunate brethren than to their own gain.

Price-Control

Circumstances occasionally, demand that the prices of food and other essential comodities should be kept within proper limits through administrative action so that the consumers were not left at the mercy of unscrupulous traders. The Arabic word for it is *Tas'eer.*

(١٧٧٧/٦١) عَنْ اَنَسٍ قَالَ غَلَا السِّعْرُ عَلٰى عَهْدِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ

❶. Meaning to collect and withold grain etc., wating for a time of dearness.

فَقَالُوْا يَا رَسُوْلَ اللهِ سَعِّرْ لَنَا فَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ اللهَ هُوَالْمُسَعِّرُ الْقَابِضُ الْبَاسِطُ الرَّازِقُ وَ اِنِّىْ لَاَرْجُوْ اَنْ اَلْقٰى رَبِّى وَلَيْسَ اَحَدٌ مِنْكُمْ يَطْلُبُنِىْ بِمَظْلَمَةٍ بِدَمٍ وَّلَا مَالٍ. (رواه الترمذى و ابو داؤد و ابن ماجه والدارمى)

(1777/61) Sayyidina Anas ﷺ narrates "(once), during the days of the Messenger of Allah ﷺ, dearness increased, people requested him to fix the prices (and enforce them on the merchants). The Messenger of Allah ﷺ, thereupon, observed: 'To raise or lower the prices is in the hands of the Lord. It is He who grants increase or decrease. He is the Sustainer and the Provider of the daily bread to all His creatrues. And I wish to meet Him in the state that no one has a claim against me for doing a wrong to him or acting unjustly towards his life or porperty." (Tirmizi, Abu dAwood, Ibn Majah and Daarami)

Commentary: From the above, it appears that the Holy Prophet ﷺ declined to control the prices of the articles of daily need even though the Companions ﷺ had complained to him against dearness, and expressed the fear that it might be an act of injustice towards anyone.

It should, nevertheless, be noted that scarcity of the essential commodities is of two kinds. Sometimes, it is due to natural causes, like a drought, and sometimes, it is man-made. From the Holy Prophet's ﷺ reply, as it is mentioned in the narrative of Sayyidina Anas ﷺ, it appears that the dearness, at that time, was the product of some natural calamity and not owing to the excessive greed of the traders. Hence, the Prophet ﷺ did not agree to price-control, fearing that it might not be fair to the merchants. We may, thus, conclude that Government be convinced that the traders are taking advantage of the situation to make an unreasonable profit and they cannot be persuaded by argument or entreaty to correct their ways, it can enforce price-control. In the words of Shah Waliullah رحمة الله عليه, to give a free rein to profiteers will tend to spread corruption on the earth and bring misery to mankind.[1]

Be that as it may, the purport of the above Tradition is that price-control should be avoided as far as possible, and resort

❶. *Hujjat*, Vol. II; p. 113.

should be taken to it only when the merchants are not amenable to good counsel humanitarian appeals, and they are fleecing the comon man without fear or shame.

It is narrated, in *Muwatta*, by Imam Maalik, on the authority of Sa'eed ibn Mussaiyib taba'ee, that once as Syyidina Umar ﷺ saw a Companion, Haatib ibn Abi Balta'ah, selling dried grapes (or bloom-raisins) in the market of Madinah at an unreasonably high rate, he said to him, "Either reduce the price or take away your goods from my market."

In the light of the general principle of the *Shariah* and the afore-mentioned remark of Sayyidina Umar ﷺ, authorities have concluded that if the circumstances demand, the price of essentail goods ought to be fixed within proper limits in order to save the people from exploitation by unprincipled merchants. Ibn-i-Taimiyah too has expressed the same view in some of his writting.[1]

Cancelling A Deal

If any of the two parties to a business transaction, the buyer or the seller makes a condition at the time that he will have the right to un do the deal within two or three days, it will have the force of law, and be in accordance with the *Shariat*. In the special usage of *Fiqh* (Islmic Jurisprudence), it is called *Khiyar-i-Shart* and is specifically mentioned in the Tradition, and the Jurists, too, are agree on its legality.

According to Imam Shafee and some other authorities, the parties are entitled to cancel a deal even without such a condition as long as they remain at the place where the transaction has taken place, but if anyone of them goes away the right will cease to hold good. It is called *Khiyar Majlis* in the Islamic system of law. But some Jurists including Imam Abu Hanifah, hold a different view. They believe that once a deal has been finally settled and transaction has taken place, it cannot be annulled unilaterally by a party provided that it had not been made a part of the agreement by the buyer or the seller. It can certainly be done by mutual consent for which the term used in *Fiqh* is *Iqala*.[2]

❶.Jam'a-ul-Fuwayid, Vol.I, p.262. ❷.Meaning cancelling a sale by mutual consent.

(١٧٧٨/ ٦٢) عَنْ اِبْنِ عُمَرَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَلْمُتَبَايِعَان كُلُّ وَاحِدٍ مِنْهُمَا بِالْخِيَارِ عَلٰى صَاحِبِهٖ مَالَمْ يَتَفَرَّقَا اِلَّا بَيْعَ الْخِيَارِ.

(رواه البخاری و مسلم)

(1778/62) It is narrated by Abdullah ibn Umar ﷺ that the Messenger of Allah ﷺ said: "Both the parties in a business deal have the right to revoke or annul it until they cease to be together, excepting the deal of *Khiyar Shart*."

(Bukhari and Muslim)

Commentary: It shows that if the condition of annulment has not been set by any of the parties to a business transaction, the right to revoke the transaction or cancel it will be exercised only to the time that the buyer and the seller are together.

According to Imam Shafee and other like-minded Jurists, the word, *Maalam Yatafarraqa* (ما لم يتفرقا), occuring in the text, signify *Khiyar Majlis*, but Imam Abu Hanifah etc., hold that both the parties to a deal have the right to withdraw the offer until the transaction is finalised, after which neither of them can do so. They argue that *Tafarraqa* denotes separation not in terms of space, but transaction and agreement, as it is borne out according to them by the Qur'an which has used to word to convey the same meaning with reference to divorce in the verse reading:

وَاِنْ يَّتَفَرَّقَا يُغْنِ اللّٰهُ كُلًّا مِّنْ سَعَتِهٖ (النساء ٤:١٣٠)

And if they separate Allah will each of them out of His abundance (Al Nisaa 4:130)

(١٧٧٩/٦٣) عَنْ عَبْدِاللهِ بْنِ عَمرِو بْنِ الْعَاصِ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ الْبَيِّعَانِ بِالْخِيَارِ مَالَمْ يَتَفَرَّقَا اِلَّا اَنْ يَّكُوْنَ صَفْقَةَ خِيَارٍ وَلَا يَحِلُّ لَهٗ اَنْ يُفَارِقَ صَاحِبَهٗ خَشْيَةَ اَنْ يَسْتَقِيْلَهٗ. (رواه الترمذی و ابو داؤد والنسائی)

(1779/63) It is narrated by Abdullah ibn 'Amr ibn al-'Aas ﷺ that the Messenger of Allah ﷺ said: "Both the buying and selling parties (to a transaction) have the right (to cancel the deal) upto the time that they do not part company, (after which the right will end), except that it had been agreed to, (at the time of the transaction), (through laying down a condition to that effect); and it is not lawful for either of the two to depart for the

Iqala, and withdrawal of offer by the other party."

(Tirmizi Abu Dawood and Nasai)

Commentary: The purport of the above Tradition is similar to that of Sayyidina Abdullah ibn Umar's ﷺ narrative we have seen before it. Both the sides in a business transaction are entitled to cancel it until they part company with each other. After it, it can be annulled only when it had been settled beforehand between them as a condition to the deal. It further tells that neither the buyer nor the seller should leave the place where the deal is made with the object of thwarting the possibility of cancellation by the other party.

Cancelling a Sale Owing To a Defecting Good

We have, already, discussed two forms of the annulment of a business deal, *Khiyar Shart* and *Khiyar Majlis*. The third form is that the buyer can lawfully cancel a deal if, on buying an article he discovers some defect in it. It is known as *Khiyar 'Aib* in Islamic jurisprudence.

(١٧٨٠/٦٤) عَنْ عَائِشَةَ اَنَّ رَجُلًا اِبْتَاعَ غُلَامًا فَاَقَامَ عِنْدَهٗ مَاشَاءَ اللّٰهُ ثُمَّ وَجَدَ بِهٖ عَيْبًا فَخَاصَمَهٗ اِلَى النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَرَدَّهٗ عَلَيْهِ فَقَالَ الرَّجُلُ يَارَسُوْلَ اللّٰهِ قَدْ اِسْتَغَلَّ غُلَامِیْ فَقَالَ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اَلْخِرَاجُ بِالضَّمَان.

(ابو داؤد والترمذی والنسائی و ابن ماجة)

(1780/64) Sayyidah Ayshah رضی اللہ عنہا narrated that "once a person bought a slave from someone and the slave remained with him for (as many days) as Allah willed. Then he discovered that there was a defect in the slave, and took the matter to the Messenger of Allah ﷺ who decided that the slave be returned (to the original master), (on account of the defect). the defendent, thereupon, said to the Messenger of Allah ﷺ: This brother of mine has profitted by the services of my slave. (I should , therefore, be compensated for it).' The Prophet ﷺ observed: *'Al-Khiraj-o-biz-zamaan.* (He has the right to profit who is accountable for loss).'"

(Abu Dawood, Tirmizi, Nasai and Ibn Majah)

Commentary: The Holy Prophet's ﷺ observation that "he has the right to profit who is accountable for loss" is among the fundamental principles of the *Shariah* from which the jurists have

derived the law for innumerable propositions.

To eloborate it, in the context of the above Tradition, suppose the slave had died or was crippled due to an injury or illness while he was with the buyer, the loss would have been his. The buyer, consequently, was entitled to the service he took from the slave during that time and the question of compensation did not arise.

An incident relating to Sayyidina Abdullah ibn Umar ﷺ which has been quoted by Imam Maalik, in Muwatta, is worth recalling here. Once Abdullah ibn Umar ﷺ had sold his slave for 800 dirhams to someone and assured the buyer that there was no defect in him. Afterwards, the buyer complained that the slave had such-and-such a defect which Abdullah ibn Umar ﷺ had not disclosed to him. The latter, perhaps, said, in his defence, that the slave never suffered from the infirmity while he was with him. Anyway, the case came up for decision in the court of the Caliph of the day, Sayyidina Usman ﷺ, who after hearing both the sides and noting that the buyer could not produce witnesses to prove that the slave was ill when he had bought him, asked Abdullah ibn Umar ﷺ, as required by the *Shariah*, if he could swear that the slave was physically fit and healthy while he was with him, but the latter expressed his inability to do so, and took back the slave. It was, then, so willed by the Lord that the slave was restored to health and Sayyidina Abdullah ibn Umar ﷺ sold him, again, for 1,500 dirhams.

The authorities are agreed that if a defect was discovered after it had been bought and it was proved that the defect was present even at the time of the transaction, the buyer could cancel the deal and take back his money. This is what *Khiyar Aib* denotes.

Cancelling a deal after it had been completed

Occasionally, after a deal has been completed between two persons, one of them, for his own reasons, wants to cancel it. The buyer, for instance, wishes to return the article or the seller wishes to have it back. In such a case, the other party is not compelled by the *Shariah* to agree to the annulment of the transaction, but the sacred Prophet ﷺ has pleaded for it on moral grounds and described much virtue in it. It is called *Iqala*.

(١٧٨١/٦٥) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ اَقَالَ مُسْلِمًا اَقَالَهُ اللّٰهُ عَثْرَتَهُ يَوْمَ الْقِيٰمَةِ. (رواه ابو داؤد و ابن ماجه)

(1781/65) It is narrated by Abu Hurayrah ؓ that the Messenger of Allah ﷺ said: "Whoever carries out a deal of *Iqala* with a Muslim brother, i.e., agrees to return or take back an article bought or sold by him, God will forgive his lapses, i.e., sins on the day of Resurrection" (Abu Dawood and Ibn Majah)

Commentary: A person wishes to return an article after he had bought it, or to have it back after he had sold it, only when he feels that the transaction had gone against him and he had made a mistake in buying or selling it. It will naturally be an act of sacrifice on the part of the other party to agree to the spirit of magnanimity and self-denial that the Holy Prophet ﷺ has appealed in the above Tradition, and reinforced it with the tidings that, on the Day of Requital, the Lord will forgive the sins of the bondsman who will act like that .

Forbidding Swearing By The Traders

Some traders have the habit of swearing profusely in order to impress the customers. It is a most improper use of the sacred Name of Allah which the Holy Prophet ﷺ has forbidden.

(١٧٨٢/٦٦)عَنْ اَبِىْ قَتَادَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِيَّاكُمْ وَكَثْرَةَ الْحَلفِ فِى الْبَيْعِ فَاِنَّهُ يُنَفِّقُ ثُمَّ يَمْحَقُ. (رواه مسلم)

(1782/66) It is narrated by Abu Qatadah ؓ that the Messenger of Allah ﷺ said: "Abstain from swearing much while selling (your goods), for though it may help to push up the sales, ultimately it will destroy blessings." (Muslim)

Commentary: The traders are warned against the evil habit of swearing and often in the course of a busines transaction. Even if the oath is true, it is a gross misuse of the exalted Name of the Lord, while if it is false, to take a false oath even once is a great sin. In a Tradition, quoted, again in Sahih Bukhari, it is stated that the trader who tries to promote his business by swearing falsely is of the sinners about whom the decision of the Lord is:

لَا يُكَلِّمُهُمُ اللّٰهُ يَوْمَ الْقِيٰمَةِ وَلَا يَنْظُرُ اِلَيْهِمْ وَلَا يُزَكِّيْهِمْ وَلَهُمْ عَذَابٌ اَلِيْمٌ

(آل عمران ٣:٧٧)

And Allah shall not speak to them, nor shall He look at them on the Day of Resurrection, nor shall He purify them, and for them is a painful Chastisement. (Aal-e-Imran 3:77)

Expiation For Swearing and Other Improper Things in Business

(١٧٨٣/٦٧) عَنْ قَيْسِ بْنِ غَرْزَةَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَامَعْشَرَ التُّجَّارِ اِنَّ الْبَيْعَ يَحْضُرُهُ اللَّغْوُ وَالْحَلْفُ فَشُوْبُوْهُ بِالصَّدَقَةِ.

(رواه ابو داؤد والترمذى والنسائى وابن ماجة)

(1783/67) Qais ibn Gharazah ﷺ relates that the Prophet ﷺ said: "O traders! "Vain and improper things take place in business, and oaths are taken. So, include charity for expiation." (Abu Dwood, Tirmizi, Nasai, and Ibn Majah)

Commentary: Many traders swear and say or do other things in order to influence the customers which are undesireable in the sight of God. The Holy Prophet ﷺ has advised them in this Tradition, to include *Sadaqah* in their businnes by way of and expiation. It will also cure them of excessive greed which induces businessmen to indulge in dirty and deplorable practices.

The Trade Which is Not Carried On Cleanly is Extremely Bad

(١٧٨٤/٦٨) عَنْ رِفَاعَةَ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ التُّجَّارُ يُحْشَرُوْنَ يَوْمَ الْقِيٰمَةِ فُجَّارًا اِلَّا مَنِ اتَّقٰى وَ بَرَّ وَ صَدَقَ

(رواه الترمذى و ابن ماجه والدارمى)

(1784/68) It is narrated by Rifa'ah ibn Rafi' Ansari ﷺ that the Messenger of Allah ﷺ said: "The traders except those who ply their trade with piety and truthfulness will rise in the Hereafter as the wicked, the sinful and the depraved." (Tirmizi, Ibn Majaha and Daarami)

Commentary: It warns that the trader who are heedless of the fear of God and injunctions of the *Shariah* and are interested only in increasing their wealth, by fair or foul means, will end up, on the

Day of Judgement, as wretched evil-doers, and it is in that state that they will appear before the Almighty for the Final Reckoning.

A kindly Advice Regarding Sale of Immovable Property

A peculiarity of immovable property, like a house, orchard or agricultural land, it that it cannot be stolen. It also remains largely, unaffected by the disasters that often overtake movable goods. Prudence would, therefore, demand that such a property was not sold without a speical reason, and if it became unavoidable, some other immovable property was purchased with its money. Out of the undbounded affection the Holy Prophet ﷺ had for the *Ummah* he has also given a similar advice to it.

(١٧٨٥/٦٩) عَنْ سَعِيْدِ بْنِ حُرَيْثٍ قَالَ سَمِعْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ مَنْ بَاعَ مِنْكُمْ دَارًا اَوْ عِقَارًا قَمِنٌ اَنْ لَا يُبَارَكَ لَهُ اِلَّا اَنْ يَجْعَلَهُ فِيْ مِثْلِهِ. (رواه ابن ماجه والدارمى)

(1785/69) Sa'eed ibn Hurayth ﷺ relates that he heard the Messenger of Allah ﷺ say: "Whoever of you sells his house or land, he deserves this act of his remained devoid of profit and propitiousness except, of course, that he invested the money thus made in a property of the same kind."(Ibn Majah and Daarami)

Commentary: As stated earlier, it is an advice by the Holy Prophet ﷺ, and not an injunction of the *Shariah*.

Partnership in Business

(١٧٨٦/٧٠) عَنْ اَبِىْ هُرَيْرَةَ رَفَعَهُ اِنَّ اللهَ عَزَّوَجَلَّ يَقُوْلُ اَنَا ثَالِثُ الشَّرِيْكَيْنِ مَالَمْ يَخُنْ اَحَدُهُمَا صَاحِبَهُ فَاِذَا خَانَهُ خَرَجْتُ مِنْ بَيْنِهِمَا. (رواه ابو داؤد)

(1786/70) It is narrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "The Lord to whom belong Might and Majesty says: 'When two persons run a business jointly, I am the third of them, i.e., My blessings are with them as long as any of them does not cheat his partner. When a partner defrauds and commits breach of faith, I part company with them (and withhold my blessings)." (Abu Dawood)

Commentary: It is a 'Celestial' Tradition, in the theolgical usage of Islam, for, in it, the Holy Prophet ﷺ has, simply reproduced what the Lord had said. It also tells by the way, that partnership in business is permitted, or rather a source of auspiciousness.

Under the heading, 'Partnership in Business', Imam Bukhari has stated, on the authority of Zuhrah ibn Ma'bad Taba'ee, that his grandfather, Abdullah ibn Hisham, was taken by his mother, Zainab bint Humaid, to the Messenger of Allah ﷺ in his childhood for *ba'it*. The Messegner of Allah ﷺ remarked that Abdullah ibn Hisham was too young, and he caressed his head lovingly, and prayed for him. Afterwards, as Abdullah ibn Hisham set up his business, Zuhrah ibn Ma'bad used to accompany him to the market. He reports that, often, when his grandfather bought grain for trade, Abdullah ibn Umar and Abdullah ibn Zubair ﷺ would request him to make them his partners becuase, so they said, the Holy Prophet ﷺ had made a prayer of abundance for him and he was sure to make much profit. His grandfather, thus, would let them have a share in the business, and the gain would, often, be so exessive that a full camel-load of grain was obtained as profit which they sent home.[1]

Appointing An Agent

(١٧٨٧/٧١) عَنْ عُرْوَةَ بْنِ اَبِى الْجَعْدِ الْبَارِقِىِّ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَعْطَاهُ دِيْنَارًا لِيَشْتَرِىَ شَاةً فَاشْتَرٰى لَهُ شَاتَيْنِ فَبَاعَ اَحَدَهُمَا بِدِيْنَارٍ وَاَتَاهُ بِشَاةٍ وَدِيْنَارٍ فَدَعَا لَهُ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِىْ بَيْعِهٖ بِالْبَرَكَةِ فَكَانَ لَوِ اشْتَرٰى تُرَابًا لَرَبِحَ فِيْهِ. (رواه البخارى)

(1787/71) Urwah ibn Al-Ja'ad Baariqi ﷺ relates, saying that, once, the Messenger of Allah ﷺ gave him a dinar to buy a goat for him. Urwah ﷺ bought two goats with it, and then sold one of the goats for a dinar, and, on returning, gave both, the goat and the other dinar, to the Holy Prophet ﷺ (and told him what he had done). The Prophet ﷺ made a special prayer for him for prosperity in trade. The narrator adds that owing to the propitiousness of the prayer his condition was that even if he bought dirt, it fetched him profit." (Bukhari)

1. Sahih Bukhari : Kitabul Shirkat

Commentary: Urwah ibn Ali Ja'ad Baariqi ﵁ had carried out the transaction, on behalf of the Holy Prophet ﷺ in his capicity as an agent. It shows that such a thing is permissible. Moreover, as Urwah ﵁ had sold one of the two goats without the permission of the Prophet ﷺ and the Prophet ﷺ had praised and blessed him, instead of holding his conduct unlawful and taking him to task for it, we conclude that an agent can sell the property of his client without obtaining his permission, and if the client does not repudiate the transaction, it will be legally correct and binding.

(١٧٨٨/٧٢) عَنْ حَكِيْمِ بْنِ حِزَامٍ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَعَثَ مَعَهُ بِدِيْنَارٍ لِيَشْتَرِیَ لَهُ بِهٖ اُضْحِيَّةً فَاشْتَرٰی كَبْشًا بِدِيْنَارٍ وَبَاعَهُ بِدِيْنَارَيْنِ فَرَجَعَ فَاشْتَرٰی اُضْحِيَّةً بِدِيْنَارٍ فَجَاءَ بِهَا وَبِالدِّيْنَارِ الَّذِیْ اِسْتَفْضَلَ مِنَ الْاُخْرٰی فَتَصَدَّقَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِالدِّيْنَارِ فَدَعَا لَهُ اَنْ يُبَارِكَ لَهُ فِیْ تِجَارَتِهٖ. (رواه الترمذی و ابو داؤد)

(1788/72) It is narated by Hakeem ibn Hizam[1] that, (once), the Prophet ﷺ gave him a dinar to buy an animal of sacrifice for him, upon which he bought a ram for it, and then sold it (to a buyer) at that very place for two dinars. Hakeem ibn Hizam ﵁, later on, bought an animal of sacrifice for one of the two dinar, and came back and delivered the animal alongwith the (remaining) dinar to the Prophet ﷺ. The Prophet ﷺ gave away the dinar in charity and prayed for Hakeem ibn Hizam's ﵁ success and prosperity in business. (Tirmizi, and Abu Dawood)

Hire And Wages

To engage anyone on wages for one's work or allow the use of something on hire or rent is a regular feature of community life. It is called *Ijara* in the terminology of *Shariah*.

(١٧٨٩/٧٣) عَنْ اَبِیْ هُرَيْرَةَ قَالَ مَابَعَثَ اللهُ نَبِيًّا اِلَّا رَعَى الْغَنَمَ فَقَالَ اَصْحَابُهٗ

❶. Hakeem ibn Hizam was nephew of Sayyidah Khadijah رضی الله عنها. He was among the prominent men of the Quraysh, and was rich as well as generous. He embraced Islam in 6 A.H., at the time of the Victory of Makkah, when he has about sixty, and lived for almost the same number of years after it. Hakeem died in Madinah at the age of about 125 years.

وَاَنْتَ؟ فَقَالَ نَعَمْ كُنْتُ اَرْعٰى عَلٰى قَرَارِيْطَ لِاَهْلِ مَكَّةَ. (رواه البخارى)

(1789/73) It is narrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "All the Prophets عليهم السلام raised up by God have grazed goats." "And you, too Messenger ﷺ?" asked the Companions ﷺ. "Yes, I, too, have grazed goats," the Prophet ﷺ replied. "I used to graze the goats of the Makkan for a few Qirats[1]." (Bukhari)

Commentary: It was during his childhood, when the Messenger of Allah ﷺ lived with his uncle, Abu Talib, that he used to graze the goats of the Makkans in return for a few *Qirats* to meet his needs. It was a common occupation in Makkah at that time.

Goat-grazing is highly patience-testing work and depending on the aptitude of a person, it can also go a long way towards the diciplining of the self. Moral vices like vanity are removed or corrected through it, it promotes the habit of tolerance and self-restraint, and teaches a man to be kind and sympathetic.

From the above Tradition, we learn that all the Divine Mesengers ﷺ have completed this course of training and further that to work on wages was not only permissible, but also a confirmed practice of the Prophets عليهم السلام.

(١٧٩٠/٧٤)عَنْ عَبْدِاللّٰهِ بْنِ عُمَرَ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّم اَعْطُوْا الْاَجِيْرَا اَجْرَهُ قَبْلَ اَنْ يَجُفَّ عَرَقُهُ. (رواه ابن ماجه)

(1790/74) It is narrated by Abdullah Ibn Umar ﷺ that the Messenger of Allah ﷺ said: "Pay the worker his wages before the sweat dries (on his body)." (Ibn Majah)

Commentary: It shows that wages should be paid to the labourer as soon as he finishes the work.

Letting Out of Land on Rent or Division of The Crop Between the Cultivator And Landlord

Another form of *Ijara* is to let out one's land to a person on the condition that he will cultivate it and pay a fixed amount as rent or the produce will be divided between the cultivator and the landlord, on a settled basis, in place of cash payment of the rent.

[1]. Almost a twelfth part of a dirham.

(١٧٩١/٧٥) عَنْ عَبْدِاللهِ بْنِ عُمَرَ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَعْطٰى خَيْبَرَا الْيَهُوْدَ اَنْ يَّعْمَلُوْهَا وَيَزْرَعُوْهَا وَلَهُمْ شَطْرُمَا يَخْرُجُ مِنْهَا. (رواه البخاری)

(1791/75) Abdullah ibn Umar ؓ narrates "(after the Victory of Khyber), the Prophet ﷺ leased out the land of Khyber to Jews, (the erstwhile owners), on the condition that they will cultivate it and keep half of the produce with themselves." (Bukhari)

(١٧٩٢/٧٦) عَنْ عَمْرٍو قَالَ قُلْتُ لِطَاوُسٍ لَوْ تَرَكْتَ الْمُخَابَرَةَ فَاِنَّهُمْ يَزْعَمُوْنَ اَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهٰى عَنْهُ قَالَ اے عَمْرو وَاُعْطِيْهِمْ وَاُعِيْنُهُمْ وَاِنَّ اَعْلَمَهُمْ اَخْبَرَنِىْ يَعْنِىْ اِبْنَ عَبَّاسٍ اَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَمْ يَنْهَ عَنْهُ وَلٰكِنْ قَالَ اَنْ يَّمْنَحَ اَحَدُكُمْ اَخَاهُ خَيْرٌ لَهٗ مِنْ اَنْ يَّاخُذَ عَلَيْهِ خَرْجًا مَعْلُوْمًا. (رواه البخاری و مسلم)

(1792/76) Amṛ ibn Dinar *Taba'ee* narrated to us, saying that, once, he said to Tavoos *Taba'ee* that it would be better if he gave up leasing of land on division of the crop (or rent) as people thought that the Messenger of Allah ﷺ had forbidden it. Taboos Taba'ee replied that his practice was that he gave the land to the farmers to cultivate, and helped them in other ways as well, and the leading theologist of the *Ummah*, Abdullah ibn Abbas ؓ, had told him that the Mesenger of Allah ﷺ had not forbidden the letting out of land on rent or division of the crop. The Holy Prophet ﷺ, nevertheless, had said that it was better to give land for cultivation to a brother free of rent than to charge anything for its use." (Bukhari and Muslim)

Commentary: It denotes that during the days of the Holy Companions ؓ and the Taba'een (plural of Taba'ee), there were some people who considered it wrong to let one's land on lease, whether in cash or kind, but the well-known pupil of Abdullah ibn Abbas ؓ, Tavoos, explained, on the authority of his master, that the Prophet ﷺ had not declared it unlawful, but simply expressed the view that, morally, it was preferable to let out land to a brother for cultivation without rent, and with an eye on the recompense of the Hereafter, than to charge something from him, in whatever form, for its use.

In the light of Abdullah ibn Abbas's ﷺ elucidation or fiat, Tavoos used to let his land on rent or division of produce and also give financial support to the tenants.

Accepting Remuneration For Dam (Blowing), T'aweez (Charm) etc.

To accept payment for one's work or anyother service rendered is inclined in *Ijara*, and a form of it, also, is the doing of *Dam*[1] over a sick person or the wirtting or giving of a *T'aweez*[2] or incantation. Such incidents have taken place in the lifetime of the the Holy Prophet ﷺ, and the Companions ﷺ had accepted payment in return for those acts, and the Holy Prophet ﷺ had held it lawful.

(١٧٩٣/٧٧) عَنِ ابْنِ عَبَّاسٍ اَنَّ نَفَرًا مِنْ اَصْحَابِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ مَرُّوْا بِمَاءٍ فِيْهِمْ لَدِيْغٌ اَوْ سَلِيْمٌ فَعَرَضَ لَهُمْ رَجُلٌ مِنْ اَهْلِ الْمَاءِ فَقَالَ هَلْ فِيْكُمْ مِنْ رَاقٍ اِنَّ فِي الْمَاء رَجُلًا لَدِيْغًا اَوْسَلِيْمًا فَانْطَلَقَ رَجُلٌ مِنْهُمْ فَقَرأَ بِفَاتِحَةِ الْكِتَابِ عَلٰى شَاءٍ فَبَرءَ فَجَاءَ بِالشَّأ اِلٰى اَصْحَابِهٖ فَكَرِ هُوْا ذَالِكَ وَقَالُوْا يَا رَسُوْلَ اللّٰهِ اَخَذَ عَلٰى كِتَابِ اللّٰهِ اَجْرًا فَقَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اِنَّ اَحَقَّ مَا اَخَذْتُمْ عَلَيْهِ اَجْرًا كِتَابُ اللّٰهِ. (رواه البخارى)

وَفِى رِوايةٍ اَصَبْتُمْ اَقْسِمُوْا وَاضْرِبُوْا لى مَعَكُمْ سَهْمًا.

(1793/77) Abdullah ibn Abbas ﷺ narrated to us that "as a party of Companions was passing through a settlement (or village), a man came and enquired if any of them did incantation. A snake had bitten someone in the village. (Or was it a scorpion that had stung)? (The narrator is not sure). A member of the party got up and went with him, and on reaching the place settled some goats as his remuneration, and (then) blew over the sick person after reciting the Qur'anic *Surah Al Fatiha*, and the man recovered. As he returned to the party with the goats, his companions did not approve of it and remarked that he had taken payment for reciting the Book of God until they all returned to Madinah

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❶. The act of reciting the Name of Allah or anyother prayer for the recovery of one who is sick, and, then, driving air over him through the mouth.

❷. An amulet or charm worn as a protection against evil.

where the matter was placed before the Prophet ﷺ, and he was told that such-and-such a member of the party had accepted remuneration for reciting the Book of God, i.e., *Surah Al-Fateha*. The Prophet ﷺ said: "The Book of God was more worthy of remuneration being accepted on it." (Bukhari)

Note: In another version of the same incident quoted again in *Sahih Bukhari*, it is added that the Prophet ﷺ observed: "You acted rightly. Divide the goats among yourselves and let me also have a share."

Commentary: The above incident is related even in greater detail in *Sahih Bukhari* and a similar even has also been mentioned in *Musnad Ahamad* and *Sunan Abu Dawood* which tells that, during a journey, some Companions ؓ were asked to blow over an insanc person, one of whom did it for three days, morning and evening, after reciting *Surah Al-Fatiha*, and by the grace of God, the man was cured of his illness. The Companions ؓ accepted remuneration for the act latter on, he was caught in two minds and could not decide if he had done the right thing. He consequently, sought the advice of the Holy Prophet ﷺ, on his return, who declared his action to be right and lawful.

On the basis of these Traditions, the authorities have concluded, almost unanimously, that to accept payment for doing *dam* or giving an amulet is legitimte and allowable in the same way as it is fair and lawful for physicians to charge a fee from their patients. It will of course, be more commendable if a service is rendered to mankind for nothing and wholly for the sake of God, which indeed, is the way of those who bear relation to the Holy Prophet ﷺ as his deupties.

BORROWING

It is not unusual for us to borrow something from others with the intention of returning it to them when the need was fulfilled. It is called *'Aariyat*[1], which is also a form of service, and whoever lends anything to a needy person is positively worthy of Divine recompense. The Holy Prophet ﷺ, himself, has taken things on loan, temporarily for his use, and also provided guidance in this regard, as the Traditions given below will show.

Borrowing of A Horse By The Prophet

(١٧٩٤/٧٨) عَنْ اَنَسٍ قَالَ كَانَ فَزَعٌ بِالْمَدِيْنَةِ فَاسْتَعَارَالنَّبِيُّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَرَسًا مِنْ اَبِىْ طَلْحَةَ يُقَالُ لَهُ الْمَنْدُوْبُ فَرَكِبَ فَلَمَّا رَجَعَ قَالَ مَارَ اَيْنَا مِنْ شَيْئٍ وَاِنْ وَجَدْنَاهُ لَبَحْرًا (رواه البخارى و مسلم)

(1794/78) It is narrated by Anas ؓ "(once), panic spread in Madinah (as a result of a false report. Perhaps, it was remoured that the enemy was advancing toward the town and an attack was imminent). The Prophet ﷺ borrowed a horse from Abu Ṭalha Ansari ؓ which was known as 'Mandoob' (meaning heavy-footed; slow in speed). He rode on it, (and want in the direction from which the attack was feared).When the Holy Prophet ﷺ returned, he said that he saw nothing. (There was no need for alarm). (With it, the Prophet ﷺ remarked about Abu Talha's ؓ horse that) 'I found him *Bahr Rawan*. (Literally, a flowing ocean)." ' (In Arabic, a fast, light-footed horse of a good breed was called *Bahr*). (Bukhari and Muslim)

Commentary: It tells that the Messenger of Allah ﷺ had borrowed the horse from Abu Talha Ansari ؓ and rode on it at a

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1. Lending or borrowing a thing which is itself tobe returned. *Aariyat* differs from *Qarz* (loan) inasmuch as in the latter term it is not understood that the identical article borrowed is returned, but simply its equivalent.

time of need. We can also obtain from this incident, an idea of the high courage and sense of duty of the Holy Prophet ﷺ. He went out, alone, to enquire in the event of danger, and on return reassured the people that there was nothing to fear.

(١٧٩٥/٧٩) عَنْ اُمَيَّةَ بْنِ صَفْوَانِ عَنْ اَبِيْهِ اَنَّ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اِسْتَعَارَ مِنْهُ' اَدْرَاعَهُ يَوْمَ حُنَيْنٍ فَقَالَ اَغَصْبًا يَا مُحَمَّدُ؟ قَالَ بَلْ عَارِيَةٌ مَضْمُوْنَةٌ.
(رواه ابو داؤد)

(1795/79) It is narrated by Umaiyyah ibn Sufwan, on the authority of his father, Sufwan ibn Umaiyyah, that the Messenger of Allah ﷺ asked him for his chain-armours, at the time of the Battle of Hunain, i.e., he wanted to borrow them from him. Sufwan, (who had not embraced Islam till then), thereupon, said: "Do you want to lay hold of my chain-armours? (As you have been victorious, and are now in power, do you want to take them by force)?" "No," said the Prophet ﷺ. "I want to borrow temporarily with the promise to return them."
(Abu Dawood)

Commentary: Sufwan ibn Umaiyyah was a leader of the Quraish and an inveterate enemy of the Holy Prophet ﷺ. When Makkah was conquered in 8 A.H., and came under the sway of Islam, Sufwan fled from the town. Upon that, some Companions who were attached to him by blood or any other tie begged the Prophet ﷺ to pardon him to which he agreed. The relatives or friends of Sufwan, then, went out in search of him and brought him back to Makkah, but he remained an infidel. Later, when after the Victory of Makkah, the Prophet ﷺ marched towards Hunain, many of the Makkans, including Sufwan, who had not yet embraced Islam joined him with his permission. It was, on that occasion, that the Holy Prophet ﷺ wanted to borrow his armour and Sufwan feared that the armour was going to be seized from him, and he would not get them back. The Prophet ﷺ assured him that he was not confiscating the armour, but only borrowing them temporarily. Sufwan, then, lent the armour.

During the journey of the Battle of Hunain, Sufwan had an opportunity to observe the Holy Prophet ﷺ closely, and he was so profoundly impressed by his moral virtues, particularly, his

magnanimity towards an Arch enemy like himself that he felt convinced that the Prophet ﷺ was a true Messenger of Allah ﷻ, and embraced Islam.

Sufwan, in any case is a Companion ؓ and so is his son, Umaiyyah.

(١٧٩٦/٨٠) عَنْ اَبِىْ اُمَامَةَ قَالَ سَمِعْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ الْعَارِيَةُ مُؤَدَّاةٌ وَالْمِنْحَةُ مَرْدُوْدَةٌ وَالدِّيْنُ مَقْضِىٌّ وَالزَّعِيْمُ غَارِمٌ

(رواه الترمذی و ابو داؤد)

(1796/80) Abu Umama Bahili ؓ relates that he heard the Prophet ﷺ say: "An article of *'Aariyat*, (which is borrowed temporarily), should be returned in any case; and an article of *Minha*, (given to a person to mke use of it), should be returned to the owner, (according to custom), after it had served the purpose; and *Qard* (loan) should be repaid, (according to the terms of the agreement); and the person who stands surety for the borrower shall be responsible for the payment."

(Tirmizi And Abu Dawood)

Commentary: In it, four commandments of the *Shari'ah* have seen indicated:

(i) When an article is borrowed for a time it must be returned without unnecessary delay.

(ii) The giving back of *Minha* is a legal and religious obligation. In olden days, a custom in Arabia was that philanthropic and generous-hearted men freely allowed the use of a thing owned by them to a brother. As for instance, they gave him, free of cost, their camel to ride, or she-camel or goat to avail himself of its milk, or land or orchard to profit by its produce. It is called *Minha*. It was enjoined that the person who recieved such an article will not claim a proprietary right over it, but give it back to the owner, in conformity with the established usage, after it had served his need.

(iii) Whoever takes a loan should earnestly try to pay it back. We have already seen the stern admonitory pronouncements of the Holy Prophet ﷺ in this regard.

(iv) Whoever becomes a surety for a person who borrows anything from anyone shall be responsible for its payment. If the

debtor does not repay the loan, the surety will be called upon to repay or reimburse it.

Misapporpriation

If an artiçle is bought from someone on a price, it is called *Ba'i* and *Shira* (Buying and Selling), in the special usage of the *Shiriah*; if it is made use on payment of hire or rent, it is called *Ijara*; and if it is borrowed for a time, without consideration, and on the understading that it will be returned after use, it is called *'Aariyat*.

Another way of acquiring anyone's property is that occupation is taken by force or fraud. It is called *Ghasab* (Misappropriation; Usurpation; Embezzlement; Plunder) which is strictly forbidden.

(١٧٩٧/٨١) عَنْ عَبْدِاللهِ بْنِ عُمَرَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ اَخَذَ مِنَ الْاَرْضِ شَيْئاً بِغَيْرِ حَقِّهٖ خُسِفَ بِهٖ يَوْمَ الْقِيٰمَةِ اِلٰى سَبْعِ اَرْضِيْنَ.
(رواه البخارى)

(1797/81) It is narrated by Abdullah ibn Umar ﷺ that the Messenger of Allah ﷺ said: "Whoever wrongfully occupies land belonging to someone else will be sunk into the ground along with the land on the Last Day until he reaches the bottom of the earth." (Bukhari)

Commentary: The above Tradition has been related to minor variations, by a number of other Companions as well. The substance of all of them, however, is that anyone who unlawfully occupies the smallest plot of land, even if it be only a *baalisht*[1] as a report tells shall be sunk, in punishment, to the lowest part of the earth on the Day of Final Reckoning.

An awe-inspiring incident has been quoted, in *Sahih Bukhari* and *Sahih Muslim*, in connection with the usurpation of land, which has a bearing on the narrative under discussion. It is related that during the Caliphate of Amir Muawiya ﷺ, a woman filed a complaint in the court of Marwaan, the Governer of Madinah, against Sa'eed ibn Zaid ﷺ, who is included among the ten Companions of the Holy Prophet ﷺ about whom the tidings of Paradise were given, name by name, in their own lifetime, that he had wrongfully occupied her land. Sa'eed ﷺ feeling extremely

❶. A span measured by the extended thumb and little finger.

hurt, exclaimed, "I will encoach upon the land of this woman and occupy it unjustly! Have I not heard the dreadful admonition pronounced, in this regard, by the Messenger of Allah ﷺ ....?" Sa'eed ؓ spoke with such feeling that even Marwaan was moved by it, and he said to him, "Now, I do not call for any proof or argument from you." Sa'eed ؓ, then, made the following supplication from the depth of his heart: "Oh God: If You know that this woman has charged me with a false offence, deprive her of the vision of her eyes, and turn the land into her grave." The narrator, Sayyidina Orwah ؓ, goes on to say that "it happened exactly like that. I myslef saw the woman; she became blind in old age and used to say that she had come to that state owing to the imprecation of Sa'eed ibn Zaid ؓ, and then one day, she fell into a ditch as she was going over her land, and the ditch became her grave."

(١٧٩٨/٨٢) عَنْ عِمْرَانَ بْنِ حُصَيْنٍ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَنَّهُ قَالَ مَنِ انْتَهَبَ نُهْبَةً فَلَيْسَ مِنَّا. (رواه الترمذی)

(1798/82) It is narrated by Imran ibn Husain that the Messenger of Allah ﷺ said: "Whoever acquries anyone's property by force is not us." (Tirmizi)

(١٧٩٩/٨٣) عَنِ السَّائِبِ بْنِ يَزِيْدَ عَنْ اَبِيْهِ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا يَاخُذُ اَحَدُكُمْ عَصَا اَخِيْهِ لَاعِبًا جَادًّا فَمَنْ اَخَذَ عَصَا اَخِيْهِ فَلْيَرُدَّهَا اِلَيْهِ. (رواه الترمذی و ابو داؤد)

(1799/83) It is narrated by Sa'ib ibn Yazid ؓ, on the authority of his father, that he Messenger of Allah ﷺ said: "None of you should take even the stick of his brother, in jest or with the intention of laking. Anyone who does so should, therefore, return it." (Tirmizi and Abu Dawood)

Commentary: It shows that even an ordinary thing like a stick should not be taken without the owner's permission, even by way of a joke. In case it is done, the article ought to be returned, and no one should imagine that the giving back of an recith of little value, like a stick was not necessary.

(١٨٠٠/٨٤) عَنْ اَبِیْ حُرَّةَ الرَّقَّاشِیِّ عَنْ عَمِّهٖ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّی اللّٰهُ عَلَيْهِ وَسَلَّمَ اَلَا لَا تَظْلِمُوْا اَلَا يُحِلُّ مَالُ امْرِءٍ اِلَّا بِطِيْبِ نَفْسٍ مِنْهُ.

(رواه البيهقی فی شعب الايمان والدارقطنی فی المجتبیٰ)

(1800/84) Abu Hurrah Az-Zaqqashi relates, on the authrity of his uncle, that the Prophet ﷺ said: "Beware! Do not be unjust to anyone. Bewre! To acquire anything belonging to anyone else, without his consent, is unlawful." (Bayhaqi and Dar Qutni)

(١٨٠١/٨٥) عَنْ جَابِرٍ اَنَّ النَّبِیَّ صَلَّی اللّٰهُ عَلَيْهِ وَسَلَّمَ مَرَّ وَاَصْحَابُهٗ بِامْرَأَةٍ فَذَبَحَتْ لَهُمْ شَاةً وَاتَّخَذَتْ لَهُمْ طَعَامًا فَاَخَذَ لُقْمَةً فَلَمْ يَسْتَطِعْ اَنْ يُّسِيْغَهَا فَقَالَ هٰذِهٖ شَاةٌ ذُبِحَتْ بِغَيْرِ اِذْنِ اَهْلِهَا فَقَالَتِ الْمَرْأَةُ يَا رَسُوْلَ اللّٰهِ اِنَّا لَا نَحْتَشِمُ مِنْ اٰلِ مُعَاذٍ نَاْخُذُ مِنْهُمْ وَيَاْخُذُوْنَ مِنَّا. (رواه احمد)

(1801/85) Sayyidina Jabir ﷺ narrated to us, saying that "the Messenger of Allah ﷺ (once), happened to pass by (the house of) a woman, with some Companions ﷺ, whereupon she invited him to dinner. (The Messenger of Allah ﷺ accepted the invitation). The woman, then slaughtered a goat, prepared the meal, and placed it before the Holy Prophet ﷺ and the Companions ﷺ. The Prophet ﷺ took a morsel of food, but he could not swallow it. (The food did not pass down his throat). Upon it, he remarked: (It appears that) the goat was slaughtered without owner's permission.' 'We do not observe such formalities with Mu'ad's ﷺ family (who are our neighbours)', the woman replied. 'We make use of their things and they make use of our things." (Musnad Ahmad)

Commentary: As it appears from the woman's reply, the goat belonged to the family of Mu'ad, and on account of the good neighbourly relations prevailing between them, and the customary behaviour, it was not thought necessary to obtain the owner's permission before slaughtering the animal. When the meal was ready and the Messenger of Allah ﷺ sat down to eat, the very first morsel got stuck in his throat, and it became apparent to him, instinctively, that the goat had been slaughtered without the permission of its owner.

Just as the Almighty Creator has endowed men with a peculiar

power or means by which they respond to things through taste or smell and it becomes impossible for them to swallow anything which is abhorrent to the palate, so des He grant to the chosen bondsmen whom He Wishes to protect from unlawful food and drink special sensitiveness which keeps them from partaking of anything that is forbidden. The inability of the Holy Prophet ﷺ to swallow the morsel of food was a distinct indication of the very favour of the Lord upon him.

Incidents of a like nature have also been reported about Holy men, known, in comon parlance, as *Auliya Allah* (Friends of God).

It is worth remembering here, that the goat had neither been stolen nor taken by force, only slaughtered without the permission of the owner owing to the close and friendly relations and order of things obtaining between the two families.

From it we can deduce how careful should one be in making use of things belonging to others without permission or willingness.

GIFT

Gift too is a form of transaction in a civilized society. The Holy Prophet ﷺ has laid a great stress on it in his Traditions and indicated that it is helpful in the promotion of mutual love and affection and conductive to growth of friendly relations which doubtlessly, are a great blessings.

A gift is an offering made as a token of goodwill, and with the object of making the other man happy and winning the good graces of the Lord. If the present is made to anyone younger in age, it is a gesture of affection; if to a friend, it is a means of strengthening the bond of love; if to a needy person, it is a source of solace and comfort; and if to a superior, it is a mark of regard and respect.

In case something is given to anyone for the sake of God and with the intention of earning the reward of the Hereafter, considering him to be poor and indigent, it will be charity (*Sadqa*), not a gift (*Hadiya*). It is only when an offering is meant to be an expression of love and fellow feeling, and through it the good pleasure of the Lord is to be sought, then it becomes a gift. If, however, a gift is made with sincerity, the reward, is less than charity, and sometimes even greater.

It was owing to this difference between *Hadiya* and *Sadqa* that the Holy Prophet ﷺ accepted a *Hadiya* (gift) with prayer and thankfulness and made use of it, while in case of a *Sadqa* (charity), his practice was though he accepted it too, with gratitude and blessed the giver, he did not use it himself but gave to others.

Unfortunately, the habit of giving presents to one another, in sincarity is rapidly disappearing among the Muslims as a whole, and though it is still done, to some extent, in relation to Holy men, it is seldom that one offers a gift to a friend, relative or neighbour despite the fact that it is an unfailing recipe handed down to us by

the Messenger of Allah ﷺ of happiness and good social realtions and a sure means to earning the countenance of the Lord.

A Present Generates Love and Removes Malice From The Heart

(١٨٠٢/٨٦) عَنْ عَائِشَةَ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ تَهَادَوْا فَإِنَّ الْهَدِيَّةَ تُذْهِبُ الضَّغَائِنَ. (رواه الترمذى)

(1802/86) It is narrated by Sayyidah Ayshah رضى الله عنها that the Prophet ﷺ said: "Exchange presents with one another. Presents remove ill-will from the hearts." (Trimizi)

(١٨٠٣/٨٧) عَنْ اَبِىْ هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ تَهَادَوْا فَإِنَّ الْهَدِيَّةَ تُذْهِبُ وَحْرَالصَّدْرِ وَلَا تُحَقِّرَنَّ جَارَةٌ لِجَارَتِهَا وَلَوْ شِقَّ فِرْسَنِ شَاةٍ. (رواه الترمذى)

(1803/87) Abu Hurayrah رضي الله عنه relates, that the Messenger of Allah ﷺ said: "Give presents to one another. Presents remove malice from the hearts, and a female neighbour should not regard the gift of a part of the trotter of a goat to another female neighbour as of no value." (Tirmizi)

Commentary: The intention os Sayyidah Ayshah's رضى الله عنها narrative is self-evident. It requires no further elucidation after what we have said in the introductory liness of this chapter.

As for the remark in Sayyidina Abu Hurayrah's رضي الله عنه a housewife should not feel ashamed to send the gift of a hoof part of goat to her nieghbour, what it apparently denotes is that it is not necessary for a present to be expensive or of a standard for, then, the opportunity to offer a gift will come only rarely. Thus, suppose the trotter of a goat have been cooked in the house, there should be no hesitation in sending some of them to the neighbour as a gift.

It needs however, be noted that the advice applies to cases in which one is confident that the neighbour will accept the gift gladly and not regard it an insult. The social and moral environment during the time of the Holy Prophet ﷺ was like that.

The Guidance And Practice of The Prophet ﷺ Concerning the Return for A Gift

(١٨٠٤/٨٨) عَنْ عَائِشَةَ قَالَتْ كَانَ النَّبِيُّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَقْبَلُ الْهَدِيَّةَ وَيُثِيْبُ عَلَيْهَا. (رواه البخاری)

(1804/88) Sayyidah Ayshah رضی اللہ عنہا narrates "The practice of the Messenger of Allah was that he accepted a gift and offered (one) him self in return for it." (Bukhari)

Commentary: It shows that when anyone offered a present to the Holy Prophet ﷺ, he accepted it with pleasure, and himself gave something to the giver as a gift, either at that very time or sometime later, in conformity with the Divine pronouncement:

هَلْ جَزَآءُ الْاِحْسَانِ اِلَّا الْاِحْسَانُ (الرحمن ٥٥:٦٠)

"Is the recompense of goodness anything but goodness?
(Al Rahman 55:60)

The Messenger of Allah ﷺ has given the same advice to his followers, as we shall see in some of the Traditions we are going to discuss. But, alas, even among the people of quality and distinction, there are few in the *Ummah* who are to observe it.

(١٨٠٥/٩٨) عَنْ جَابِرٍ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ مَنْ أُعْطِيَ عَطَاءً فَوَجَدَ فَلْيَجْزِ بِهٖ وَمَنْ لَمْ يَجِدْ فَلْيُثْنِ فَإِنَّ مَنْ اَثْنٰى فَقَدْ شَكَرَ وَمَنْ كَتَمَ فَقَدْ كَفَرَ وَمَنْ تَحَلّٰى بِمَا لَمْ يُعْطَ كَانَ كَلَابِسِ ثَوْبَيِ زُوْرٍ (رواه الترمذی و ابو داؤد)

(1805/98) It is narrated by Jabir ﷺ that the Messenger of Allah ﷺ said: "If a present is made to anyone, and he has something to give in return, he should offer it, and if he has nothing to give (in return), he should praise him (by way of gratitude), and say a good word in his behalf. Whoever did it, fulfilled the claim of gratitude, and whoever did not, and concealed a favour (done to him), was guilty of ingratitude, and whoever flaunts a virtue that has not been granted to him is like a man who wears a double cloak of deception." (Tirmizi and Abu Dawood)

Commentary: It tells that if a person were to recieve a present from a friend, he should also offer him something in return, and should he not be in a position to do so, he should utter a word of goodness for him and speak of his kindness to others. It too, will

be reckoned with the Lord as an expression of grtitude.

As we are going to see in the next Tradition, the saying of *Jazaak Allah* (May God reward thee! God bless thee!) will suffice. On the contrary, person who recieves a gift and hides it from others and does not even say *Jazaak Allah* will be guilty of ingratitude.

The last part of saying, it would seem, denotes that anyone who shows himself off, through his dress etc., as possessing a virtue, such as, learning or spirituality, which he does not really have is a cheat and an imposter.

By adding it to the advice about a gift or offering, what the Holy Prophet ﷺ, probably, meant was to emphasise that if a person who is lacking in qualities owing to which people generally consider it an act of virtue to offer a gift to anyone, gives an impression through his clothes, conversation or way of life that he is endowed with those attributes in order to obtain gifts and presents from others, he is no better than a swindler.

Grtefulness to Benefactors

(١٨٠٦/٩٩) عَنْ اَبِى هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ لَّمْ يَشْكُرِ النَّاسَ لَمْ يَشْكُرِ اللّٰهَ. (رواه الترمذى)

(1806/99) It is narrated by Abu Hurayrah ؓ that the Messenger of Allah ﷺ said: "whoever failed to give thanks to anyone who did a favour to him failed to give thanks to God."

(Musnad Ahmad and Tirmizi)

Commentary: It shows that anyone who offers a gift or does a favour in any other way should be thanked sincerely for it and prayer made for his well-being. A person who fails to do so proves himself to be ungrateful to God as well.

According to some commentators, what it seeks to stress is that anyone who does not feel indebted to his benefactors is sadly wanting in th sense of obligation, and will not be grateful even to God.

(١٨٠٧/١٠٠) عَنْ اُسَامَةَ بْنِ زَيْدٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ

مَنْ صُنِعَ اِلَيْهِ مَعْرُوْفٌ فَقَالَ لِفَاعِلِهٖ جَزَاکَ اللّٰهُ خَيْرًا فَقَدْ اَبْلَغَ فِي الثَّنَاءِ.

(رواه الترمذی)

(1807/100) It is narrated by Usama ibn Zaid ﷺ that the Messenger of Allah ﷺ said: "Whoever did a favour to anyone and the recited for his benefactor, *Jazaak Allah Khaira* (May Allah give a good reward for it), he also, praised him fully (thorugh it)." (Tirmizi)

Commentary: Apparently, *Jazaak Allah Khaira* is a prayer formula, but when anyone prayes for his bnenfactor in these words, he, as it were, acknowledges his inability to repay the debts of gratitude he owes to him and declares that only the Supreme Being, the Gracious One, can requite him, and together with it beseeches the Lord to reward him bountifully for his goodness. It is, thus a prayer as well as an acknowledgement of the benefactor's kindliness and humanity.

(١٠١/١٨٠٨) عَنْ اَنَسٍ قَالَ لَمَّا قَدِمَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ الْمَدِيْنَةَ اَتَاهُ الْمُهَاجِرُوْنَ فَقَالُوْا يَا رَسُوْلَ اللّٰهِ مَا رَاَيْنَا قَوْمًا اَبْذَلَ مِنْ كَثِيْرٍ وَلَا اَحْسَنَ مُوَاسَاةً مِنْ قَلِيْلٍ مِنْ قَوْمٍ نَزَلْنَا بَيْنَ اَظْهُرِهِمْ لَقَدْ كَفَوْنَا الْمُؤْنَةَ وَاَشْرَكُوْنَا فِي الْمَهْنَا حَتّٰى لَقَدْ خِفْنَا اَنْ يَّذْهَبُوْا بِالْاَجْرِ كُلِّهٖ فَقَالَ لَا مَا دَعَوْتُمُ اللّٰهَ لَهُمْ وَاَثْنَيْتُمْ عَلَيْهِمْ.

(رواه الترمذی)

(1808/101) Sayyidina Anas ﷺ narrated to us that when the Messenger of Allah ﷺ migrated to Madinah, (and the Muhajirs had an experience of the hospitality and unselfishness of the Ansars), they one day said to the Prophet ﷺ: "We have not seen people like them, i.e., the Ansar of Madinah anywhere. (They spend generously on us) if they are well-provided, and even those who are not in good condition help us and take care of our needs. They have taken all the responsibilities for toil and labour upon themselves, and, (yet), made us a sharer in the profits. (As a result of the unique self-denial and liberality on their part), we fear that they took all the reward and and recompense, (and we reamined empty-handed in the Hereafter)." "No," the Messengr of Allah ﷺ replied. "It will not be so as long as you pray for them and express a sincere appreciation (of their goodness." (Tirmizi)

Commentary: When the Holy Prophet ﷺ had migrated from Makkah to Madinah, a large number of Muhajirs, too, had come with him. In the early days as is well known, the Ansars of Madinah had made all of them their guests, solely for the sake of God. They cultivated the fields and did all the work themselves, and ye, shared the income with the Emigrants. There were rich as well as poor among the Ansars, but they all joined ungrudgingly in the service of the Mahajirs. The well-to-do spent their wealth with open hands on the Mahajirs, while even those who were poor preferred to go hungry in order to help them. It was in those circumstances that the Eimgrants thought if it was going to be that because of their unparalleled generosity and selflessness, the Ansars took all the reward on their, (the Emigrants'), good deeds like Migration and worship, and they themselves gained nothing, As they expressed the fear to the Holy Prophet ﷺ, he assured them that it would not be so provided they prayed to God for their helpers, the Ansars, in return for their large-heartedness and hospitality, and acknowledged what they owed to them with an open heart and felt grateful. The Lord will accept it as recompense from their side for the benevolance of the Ansars and requite them from His own treasures for the bortherly love displayed by them.

Articles Which Should Not be Refused As A Gift

(١٨٠٩/١٠٢) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ عُرِضَ عَلَيْهِ رَيْحَانٌ فَلَا يَرُدَّهُ فَاِنَّهُ خَفِيْفُ الْمَحْمَلِ طَيِّبُ الرِّيْحِ. (رواه مسلم)

(1809/102) It is narrated by Abu Hurayrah رضي الله عنه that the Messenger of Allah ﷺ said; "Whoever is offered a sweet-smelling flower should accept it, and not reject it because it is a very ordinary thing. Its fragrance is a thing of joy."

(Muslim)

Commentary: If an ordinary thing like a flower was refused, the giver might feel that his gift had been refused because it was an ordinary, and it hurt his feelings.

In another Tradition, quoted in Tirmizi, it is stated that "whoever is offerred a sweet-smelling flower should not decline to accept it for a sweet-smelling flower is a gift of Paradise."

In *Sahih Muslim*, it is further mentioned on the authority of Sayyidina Anas ﷺ, that "The practice of the Messenger of Allah ﷺ was that he never refused a perfume."

(١٨١٠/١٠٣) عَنْ اِبْنِ عُمَرَ قَالَ قَالَ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ ثَلٰثٌ لَا تُرَدُّ الْوَسَائِدُ وَالدُّهْنُ وَاللَّبَنُ. (رواه الترمذی)

(1810/103) It is narrated by Abdullah ibn Umar ﷺ that the Messenger of Allah ﷺ said: "There are three things which, particularly should not be refused; a pillow, oil (used for applying to hair etc) and milk." (Tirmizi)

Commentary: The peculiarity with the three things mentioned above, again costs little and the person who offers them is made happy.

We can conclude about other articles of thesame class and category, as well, on the basis of this saying.

To Claim Back a Gift is Highly Disgraceful

(١٨١١/١٠٤) عَنْ اِبْنِ عُمَرَ وَابْنِ عَبَّاسٍ اَنَّ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا يَحِلُّ لِلرَّجُلِ اَنْ يُعْطِيَ عَطِيَّةً ثُمَّ يَرْجِعُ فِيْهَا اِلَّا الْوَالِدُ فِيْمَا يُعْطِيْ وَلَدَهٗ، وَمَثَلُ الَّذِيْ يُعْطِيْ الْعَطِيَّةَ ثُمَّ يَرْجِعُ فِيْهَا كَمَثَلِ الْكَلْبِ اَكَلَ حَتّٰى اِذَا شَبِعَ قَاءَ ثُمَّ عَادَ فِيْ قَيْئِهٖ. (رواه ابو داؤد والترمذی والنسائی و ابن ماجه)

(1811/104) (Both) Abdullah ibn Umar and Abdullah ibn Abbas رضی الله عنهما related to us, saying that the Messenger of Allah ﷺ said: "It is not prorper for anyone of you to offer something to a person as a gift and then take it back. Of course, if a father gives anything to his children he is exempted from it. (He can take it back) for a father has every kind of claim on his children." (Explaining the wretchedness of the act), the Messenger of Allah ﷺ, further observed that "whoever claims back a gift after giving it is like the dog who ate something and when its stomach was filled to capacity, vomited it, and ate up the vomit." (Abu Dawood, Tirmizi, Nasai and Ibn Mjajah)

To Whom It is Forbidden to Accept A Gift

(١٨١٢/١٠٥) عَنْ جَابِرٍ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ هَدَايَا

الْإِمَامَ غُلُوْلٌ. (رواه الطبرانی فی الاوسط)

(1812/105) It is narrated by Jabir ﷺ that the Messenger of Allah ﷺ said: "gifts (accepted by) the ruler are *Ghuloo*, i.e., an excess and a transgression. (It is similar in a way to bribery, embezzlement and oppression)." (Tabarani)

(١٨١٣/١٠٦) عَنْ اَبِىْ اُمَامَةَ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ مَنْ شَفَعَ لِاَحَدٍ شَفَاعَةً فَاَهْدٰى لَهٗ هَدِيَّةً عَلَيْهَا فَقَبِلَهَا فَقَدْ اَتٰى بَابًا عَظِيْمًا مِنْ اَبْوَابِ الرِّبَا. (رواه ابو داؤد)

(1813/106) It is narrated by Abu Umamah ﷺ that the Messenger of Allah ﷺ said: "Whoever interceded for anyone, and the person on behalf of whom he interceded made him a present in considertion of the intercession and he acepted the present was guilty of a worst form of usury." (Abu Dawood)

Commentary: In the two afore-mentioned narratives, it is told that a gift is worthy of acceptance only when it is offered sincerely and no other motive or reason is attached to it.

WAQF (Charitable Fund)

Like charity, alms-giving and gift, *Waqf* i.e., dedication or making of a grant for a charitable or religous purpose too is among the monetary affairs and arrangements that are a means to the propitiation of the Lord.

As Shah Waliullah رحمة الله عليه says, the Arabs were ignorant of the institution of Waqf before the advent of Islam. It was the Holy Prophet ﷺ who acquainted them with it, and advised them to make such endowments. What it denotes, in brief, is that a grant is made of something like land or money which is of lasting value and yields a continuing income, for religious or charitable use, and its income or produce is spent on pious purposes, as desired by the *Waqif*, i.e., the person who makes the endowment, and the Waqif, on his part, permanently, gives up all proprietary rights over the property.

Basic Principles

(١٨١٤/١٠٧) عَنْ عَبْدِاللهِ بْنِ عُمَرَ اَنَّ عُمَرَ اَصَابَ اَرْضًا بِخَيْبَرَ فَاَتَى النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ يَا رَسُوْلَ اللهِ اِنِّيْ اَصَبْتُ اَرْضًا بِخَيْبَرَ لَمْ اُصِبْ مَالًا قَطُّ اَنْفَسَ عِنْدِىْ مِنْهُ فَمَا تَامُرُنِيْ بِهٖ فَقَالَ اِنْ شِئْتَ حَبَّسْتَ اَصْلَهَا وَتَصَدَّقْتَ بِهَا فَتَصَدَّقَ بِهَا عُمَرُ اَنَّهٗ لَا يُبَاعُ اَصْلُهَا وَلَا يُوْهَبُ وَلَا يُوْرَثُ وَتَصَدَّقَ بِهَا فِي الْفُقَرَاءِ وَفِي الْقُرْبٰى وَ فِي الرِّقَابِ وَ فِيْ سَبِيْلِ اللهِ وَابْنِ السَّبِيْلِ وَالضَّيْفِ لَاجُنَاحَ عَلٰى مَنْ وَلِيَهَا اَنْ يَّاكُلَ مِنْهَا بِالْمَعْرُوْفِ اَوْيُطْعِمَ غَيْرَ مُتَمَوِّلٍ.

(رواه البخاری و مسلم)

(1814/107) Sayyidina Abdullah ibn Umar رضي الله عنه narrated that his father, Sayyidina Umar رضي الله عنه, had recieved a plot of land in Khyber. He went to the Messenger of Allah ﷺ, and said: "I have been given some land in Khyber (which is very good). It is

the most valuable property I have. What is your command concerning it?" The Prophet ﷺ replied: "If you like, you can set apart the land as a *Waqf* and declare (its produce or income) to be *sadaqah* (charity)." Sayyidina Umar ؓ, thereupon, dedicated it as a *Waqf* (and) charity in the path of Allah, (as the Prophet ﷺ had advised), and laid down that the land was never to be sold, nor given away as a gift, nor would inheritance ever open from it, and that its income should be spent in the way of God, on the poor, the destitute and the kinsmen, and on buying freedom for the captives, and in connection with *Jihad*, and in the service of the guests and the wayfarers. And whoever was appointed its trustee or administrator, it would be lawful for him to eat of it himself and feed others, within proper limits, provided that he did not hoard wealth and get rich by means of it." (Bukhari and Muslim)

Commentary: This saying of the Holy Prophet ﷺ contains a fundamental definition of *Waqf* and indicates its basic principles. The conquest of Khyber took place in 7 A.H,. Its land, on the whole, was most fertile, After victory, the captured land was distributed among the Muslim warriors taking part in the campaign, as provided by the *Shariah*. The plot of the land was allotted to Sayyidina Umar ؓ was in his view the most valuable property he possessed, and since it was set forth in the Qur'an:

لَنْ تَنَالُوا الْبِرَّ حَتّٰى تُنْفِقُوْا مِمَّا تُحِبُّوْنَ (آل عمران ٣:٩٢)

You cannot attain virtue unless you expend of that which you love (Aal-e-Imran 3:92)

He thought that as it was his most precious possession, his endeavour ought to be to gain the countenance of the Lord by spending it in His path, but could not decide what was the best way of doing so. He, therefore, approached the Messenger of Allah ﷺ for advice who suggested it to him to dedicate the land as a *Waqf* so that it continued unchanged as charity. Sayyidina Umar ؓ, thus, made a *Waqf* of it, and also determined the items on which its produce or income was to be spent. These items were virtually indentical to what had been laid down in the Qur'an.[1]

The Tradition, in the end tells that the person who held the

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❶. Surah Tawba 60.

property in trust and administered it should not take anything from it to add to his wealth. He could, however, utilise it within due limits for his own sustenance and the sustenance of his family, and for entertaining the guests. It would be lawful.

(١٨١٥/١٠٨) عَنْ سَعْدِ بْنِ عُبَادَةَ قُلْتُ يَا رَسُوْلَ اللهِ اِنَّ اُمِّيْ مَاتَتْ فَاَيُّ الصَّدَقَةِ اَفْضَلُ؟ قَالَ الْمَاءُ فَحَفَرَ بِيْرًا وَقَالَ هٰذِهٖ لِاُمِّ سَعْدٍ(رواه ابو داؤد والنسائی)

(1815/108) It is narrated by Sa'd ibn Ubadah ﷺ "I went to the Messenger of Allah ﷺ and said to him that my mother had died. (I wanted to give something as charity on her behalf). So, what charity would be the best and most rewarding for her? The Messenger of Allah ﷺ replied: "Water. (Dig a well and dedicate it for public use so that everyone can profit by its water).' I, consequently, built a well and declared that it was for my mother, Umm Sa'd. (The divine reward on it may keeep on reaching her)." (Abu Dawood and Nasai)

Commentary: In some other versions of the same Tradition it is stated that Sa'd ibn Ubadah ﷺ was in a journey when his mother died. On his return, he reported himself to the Holy Prophet ﷺ and said that his mother had died during his absence. He felt that if he ws present at that time, she would have made a will regarding charity etc., which could be of advantage to her in After-life. Thus Prophet ﷺ advised him to dig a well. Sa'd ibn Ubadah ﷺ, thus, had a well dug at a suitable place and dedicated it to his mother's name for perpetual Divine reward.

The dedication of an orchard, too, is mentioned in some narratives. It is possible that the well was dug in the orchard.

It was the the second instance of a *Waqf* being created during the life-time of the Holy Prophet ﷺ, on his advice.

It further shows the soundness and validity of performing a virtuous deed on behalf of a deceased person and gifting the Divine reward on it to him. The technical term for it is *Isaal-i-Sawaab*, upon which there is an a agreement in principle. among the Jurists of *Ahl-i-Sunnah*.[1]

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❶. People of the Sunnah and the way of the Companions

Two Waqfs Created by Sayyidina Uthman ﷺ

(١٨١٦/١٠٩) عَنْ ثُمَامَةَ بْنِ حَزَنِ الْقُشَيْرِيِّ قَالَ شَهِدتُّ الدَّارَحِيْنَ اَشْرَفَ عَلَيْهِمْ عُثْمَانُ قَالَ اُنْشِدُكُمُ اللهَ وَالْاِسْلَامَ هَلْ تَعْلَمُوْنَ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَدِمَ الْمَدِيْنَةَ وَلَيْسَ بِهَا مَاءٌ يُسْتَعْذَبُ غَيْرُ بِيْرِرُوْمَةَ فَقَالَ مَنْ يَّشْتَرِىْ بِيْرَ رُوْمَةَ يَجْعَلُ دَلْوَهٗ مَعَ دِلَاءِ الْمُسْلِمِيْنَ بِخَيْرٍ لَهٗ مِنْهَا فِى الْجَنَّةِ فَاشْتَرَيْتُهَا مِنْ صُلْبِ مَالِىْ وَاَنْتُمُ الْيَوْمَ تَمْنَعُوْنَنِىْ اَنْ اَشْرَبَ مِنْهَا حَتّٰى اَشْرَبَ مِنْ مَاءِ الْبَحْرِ فَقَالُوْا اَللّٰهُمَّ نَعَمْ...... فَقَالَ اُنْشِدُكُمُ اللهَ وَالْاِسْلَامَ هَلْ تَعْلَمُوْنَ اَنَّ الْمَسْجِدَ ضَاقَ بِاَهْلِهٖ فَقَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ يَشْتَرِىْ بُقْعَةَ اٰلِ فَلَانٍ فَيَزِيْدَهَا فِى الْمَسْجِدِ بِخَيْرٍ لَّهٗ مِنْهَا فِى الْجَنَّةِ فَاشْتَرَيْتُهَا مِنْ صُلْبِ مَالِىْ فَاَنْتُمُ الْيَوْمَ تَمْنَعُوْنَنِىْ اَنْ اُصَلِّىَ فِيْهِ رَكْعَتَيْنِ فَقَالُوْا اَللّٰهُمَّ نَعَمْ قَالَ اُنْشِدُكُمُ اللهَ وَالْاِسْلَامَ هَلْ تَعْلَمُوْنَ اِنِّىْ جَهَّزْتُ جَيْشَ الْعُسْرَةِ مِنْ مَالِىْ قَالُوْا اَللّٰهُمَّ نَعَمْ قَالَ اُنْشِدُكُمُ اللهَ وَالْاِسْلَامَ هَلْ تَعْلَمُوْنَ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ عَلٰى ثُبَيْرِ مَكَّةَ وَ مَعَهٗ اَبُوْ بَكْرٍ وَ عُمَرُ وَاَنَا فَتَحَرَّكَ الْجَبَلُ حَتّٰى تَسَاقَطَتْ حِجَارَةٌ بِالْحَضِيْضِ فَرَكَضَهٗ بِرِجْلِهٖ قَالَ اُسْكُنْ ثُبَيْرُو فَاِنَّمَا عَلَيْكَ نَبِىٌّ وَصِدِّيْقٌ وَشَهِيْدَانِ' قَالُوْا اَللّٰهُمَّ نَعَمْ قَالَ اللهُ اَكْبَرُ شَهِدُوا وَ رَبِّ الْكَعْبَةِ اَنِّىْ شَهِيْدٌ ثَلٰثًا. (رواه الترمذى والنسائى)

(1816/109) Thumamah ibn Hasan Qusairi narrated (Taba'ee) "I was present near the house of Uthman ﷺ (when the army of the rebels had laid seige to it). Uthman ﷺ looked at the crowed from the top of his house, and said: 'I ask you in the name of Allah and Islam, whether you know it (or not) that when the Messenger of Allah ﷺ came to Madinah there was no well of sweet water here except Bir Roma (which was owned by someone). The Messenger of Allah ﷺ, thereupon, said: 'Is there anyone who could buy Bir Roma and dedicate it as a *Waqf*, for the common Muslims so that all the Muslims could freely draw the water from it?" I then bought the well with my money and made a *Waqf* of it in favour of the Muslims, as a whole, and today you are not allowing me to drink its water and forcing me to drink brackish water like that of the sea. The people replied:

'Yes, O God, we are aware of it.' Sayyidina Uthman ﷺ, after it said: 'I ask you in the name of Allah and Islam, do you know (or not) that when Masjid-i-Nabawi[1] had become too small for the devotees the Messenger of Allah ﷺ had said: 'Is there anyone who could buy the land of such-and-such family (that lay ajacent to the mosque) and attach it to the Mosuqe, and the Lord gave him a better reward, in return for it in Paradise?' I had bought the land with my own money (and attached it to the Mosque), and today you are preventing me from offering two Rak'ats of salah in it?' 'Yes, O God, we are aware of it, the people replied. After it Sayyidina Uthman ﷺ said: "Do you know that, (at the exhortation of the Messenger of Allah ﷺ), I had provided (all) the equipment for the army raised for the Battle of Tabouk with my money?' Yes, O God, we are aware of it,' the people replied. After it, Sayyidina Uthman ﷺ said: "I ask you, in the name of Allah and Islam, do you know that once when the Messenger of Allah was on Mount Thabayr in Makkah, Abu Bakr ﷺ, and Umar ﷺ and myself, were with him, the mountain had begun to shake till some of the rocks had fallen down. The Prophet ﷺ had, then, struck the mountain with his blessed foot, and said: "O Thubayr! Be still. there is a Divine Prophet ﷺ on you, and a true and sincere friend and two martyrs?' The people, again, replied, 'Yes, O God, we are aware of it.' Sayyidina Uthman ﷺ, thereupon, said: *'Allah-u-Akbar*! By the Lord of Kaba! These people, also testify that I am a martyr,' Sayyidina Uthman ﷺ said it thrice." (Tirmizi and Nasai)

Commentary: In the Tradition two *Waqfs* are mentioned which Sayyidina Uthman had created on the advice of the Holy Prophet ﷺ (i) The *Waqf* of Bir Roma which, perhaps was the first *Waqf* in Islam as it had been created on the Migration of the Holy Prophet ﷺ to Madinah. It is not possible to think of any Waqf in Makkah before it. (ii) The *Waqf* of the land Sayyidina Uthman had bought and given for the extension of the Prophet's Mosque.

The above Tradition, ostensibly, appertains to the moral excellence of Sayyidina Uthman and in most of the compilations But since it tells of the two *Waqfs* Sayyidina Uthman ﷺ had created at the wish and on the advice of the Holy Prophet ﷺ, it seemed advisable to include it in this chapter.

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❶. The mosque of the Holy Prophet in Madinah.

It contains a great lesson for the *Ummah*. The people, in those days, were generally aware of the deeds and virtues of Sayyidina Uthman ﷺ, and the tidings the Holy Prophet ﷺ had given about him, and these things were so widely known that no one could deny them. Yet, in spite of all that, the henchmen of the Devil killed him in a most brutal manner, and, since then, the *Ummah* has been paying the penalty in the form of unending discord and conflict.

WILL

Will (*Wasiyat*), also forms part of monetary affairs. Through it a man who owns some property declares that such a part of it shall be spent on such a religious charitable purpose or go to such a person after his death. A Will of this kind commands a legal position in the *Shariah*, and precise rules and regualtions have been laid down for it some of which are indicated in the Traditions we are going to discuss below. 'For details the reader is reffered to the books of Islamic Jurisprudence.

If a Will is made in the way of God and with the intention of gaining the reward of the Hereafter, it is a kind of *Sadaqah* (charity), and the *Shari'ah* has commended it. Moreover, in case anything is placed in trust with a person or he is in debt or there is anyone's claim on him of any sort, it is necessary for him to make a Will regarding its return, restoration or settlement.

A Will should, further, be written down and kept safe.

Now, to take up a few Traditions.

A Religous Obligation

(١٨١٧/١١٠) عَنْ عَبْدِاللهِ بْنِ عُمَرَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَا حَقُّ امْرِئٍ مُسْلِمٍ لَهُ شَيْئٌ يُوْصٰى فِيْهِ يَبِيْتُ لَيْلَتَيْنِ اِلَّا وَ وَصِيَّتُهُ مَكْتُوْبَةٌ عِنْدَهُ. (رواه البخاری ومسلم)

(1817/110) It is narrated by Abdullah ibn Umar ﷺ that the Messenger of Allah ﷺ said: "It is not proper for a Muslim who has anything (like land, goods, money, trust or debt) about which a Will ought to be made that he allows two nights to pass in the condition that its deed has not ben prepared and is not with him." (Bukhari and Muslim)

Commentary: What it stresses is that one should not put off the

preparation of a regular Will thinking what was there to hurry about and he would have it done before dying. A Muslim should always imagine that death was near and have his Will ready. Even two days should not be allowed to pass without it.

The purport of the above Tradition is that no one should delay or procrastinate in this matter. Who can be sure when death will strike?

Sayyidina Abdullah ibn Umar's ﷺ srevant, Nafey, who is the narrator of this Tradition, on the authority of his master, says that after relating it, Abdullah ibn Umar ﷺ added that from the time he had heard it from the Prophet ﷺ, he did not let a day pass without the Will being with him.

(١٨١٨/١١١) عَنْ جَابِرٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ مَاتَ عَلٰى وَصِيَّةٍ مَاتَ عَلٰى سَبِيْلٍ وَ سُنَّةٍ وَ مَا تَ عَلٰى تُقًى وَ شَهَادَةٍ وَ مَاتَ مَغْفُوْرًا لَهُ. (رواه ابن ماجه)

(1818/111) It is narrated by Jabir ﷺ that the Messenger of Allah ﷺ said: "Whoever died in the state of *Wasiyat*, i.e., in the state that he had made the Will concerning his property and other affairs as he ought to have, and in accordance with the *Shariah*, he died on the right path, in the observance of the commandments of the *Shariah*, and his death will be the death of piety and martyrdom, and he will be forgiven (his sins)."

(Ibn Majah)

Claim of The Heirs Should Not Be Disregarded

(١٨١٩/١١٢) عَنْ سَعْدِ بْنِ اَبِيْ وَقَّاصٍ قَالَ جَاءَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَعُوْدُ نِيْ وَاَنَا بِمَكَّةَ وَهُوَ يَكْرَهُ اَنْ يَّمُوْتَ بِالْاَرْضِ الَّتِيْ هَاجَرَ مِنْهَا فَقَالَ يَرْحَمُ اللهُ ابْنَ عَفْرَاءَ قُلْتُ يَارَسُوْلَ اللهِ اُوْصِيْ بِمَا لِيْ كُلِّهٖ؟ قَالَ لَا قُلْتُ فَالشَّطْرَ؟ قَالَ لَا، قُلْتُ فَالثُّلُثُ؟ قَالَ اَلثُّلُثُ وَالثُّلُثُ كَثِيْرٌ اِنَّكَ اَنْ تَدَعَ وَرَثَتَكَ اَغْنِيَاءَ خَيْرٌ مِنْ اَنْ تَدَعَهُمْ عَالَةً يَتَكَفَّفُوْنَ النَّاسَ فِيْ اَيْدِيْهِمْ وَاِنَّكَ مَهْمَا اَنْفَقْتَ مِنْ نَفَقَةٍ فَاِنَّهَا صَدَقَةٌ حَتَّى اللُّقْمَةَ الَّتِيْ تَرْفَعُهَا اِلٰى فِيْ اِمْرَأَتِكَ وَعَسَى اللهُ اَنْ يَرْفَعَكَ فَيَنْتَفِعَ بِكَ نَاسٌ وَيُضَرُّ بِكَ اٰخَرُوْنَ وَلَمْ يَكُنْ لَهُ يَوْمَئِذٍ اِلَّا اِبْنَتَهٗ.

(رواه البخاری و مسلم)

(1819/112) Sa'd ibn Waqqas narrated that "(once) I (fell seriously ill) in Makkah and the Messenger of Allah came to visit me. I thought it was very bad for me to die on the soil of Makkah from which I had migrated (and which I had left for good for the sake of God). The Messenger of Allah, then said (by way of prayer and consolation): 'May Allah have mercy upon Arfa'a's son'. (Afra'a was the name or title of Sa'd ibn Waqqas' mother). I asked him: 'Sir, what do you say: May I bequeath all my property (for the sake of God (and) (to religous and charitable uses?' 'No,' the Prophet replied. '(Don't do it).' 'Then, the half of it?' I asked. 'No.' the Prophet replied. '(Not even that)'. 'Then, one thrid?' I asked. 'Yes', the Prophet replied. 'You may leave one-third of it, by Will, for such purposes, and even one-third is much.' (After it), the Prophet observed: 'It is better for you to leave behind your heirs in good (financial) condition that in poverty so that they have to stretch their hands before others. (Moreover), whatevr you spend (for the sake of God and with the intention of earning the Divine reward) it will be *Sadaqa* (charity) on your part (even if it is spent on relatives and heirs), so much so that the morsel of food you put with your hand in your wife's mouth (will be charity in the judgement of God.' (In the end), the Prophet observed: 'It is hoped that the Lord will grant you recovery, and raise you to a high position in future, and then many people will be benefitted by you and many will be harmed." The narrator (Aamir ibn Sa'd) who narrated it, on the authority of his father, Sa'd ibn Waqqas, added that "at the time of this incident, Sayyidina Sa'd had only one daughter, (and no other child)."

(Bukhari and Muslim)

Commentary: Sayyidina Sa'd ibn Waqqas had accompanied the Holy Prophet on the Farewell Hajj, and he fell ill in Makkah and his condition became so grave that, according to some reports, he felt he had reached the edge of the grave. Since he was a Mahajir, he did not like the idea of dying and being buried on the soil of Makkah which he had abandoned forever in the way of Allah. As the Holy Prophet came to visit him and learnt of his anxiety, he comforted him and prayed for him, saying, "May Allah have Mercy on Arfa'a's son." Sayyidina Sa'd ibn Waqqas who was among the well-to-do Companions, thereupon, enquired

from the Messenger of Allah ﷺ about making his Will. (In some other accounts of the above Tradition it is stated that Sa'd ibn Waqqas ؓ said to the Messenger of Allah ﷺ: "The Lord has bestowed much wealth upon me and I have only one daughter. I think tht for the betterment of my prospects in After-life I bequeath all of my property to sacred and charitable uses." But the Holy Prophet ﷺ did not allow it. He did not allow him even to leave half of his possessions to such purposes. It was only one-third that the Holy Prophet ﷺ said he could declare for them, and added that even that was much.

The Holy Prophet ﷺ, further explained to him that to spend on one's relatives and leave behind one's wealth to one's heirs too, was charity in the sight of God provided that it was with the intention of earning High countenance and the reward of the Hereafter is distinctly stated in some ersions of the above narrative. To bring home the point, the Prophet ﷺ remarked that even to put a morsel of food in the mouth of one's wife with one's hand, with that intention. was a virtuous act, meriting reward in life to come, although there was also an element of sensual pleasure in it.

The Prophet's ﷺ observation that "it is hoped God will raise you to a high position in future, and then many people will be benefitted by you, and many will be harmed" contained a prediction about Sayyidina Sa'd ibn Waqqas ؓ which no one could visualise at that time. What the Prophet ﷺ meant was that the Lord had yet to take much work from Sayyidina Sa'd ؓ. He would, *Insha Allah*, get well and come to such power and eminence that the destinies of innumerable men would be made and unmade through him. The Holy Prophet ﷺ had said it at a time when Sayyidina Sa'd ؓ was hovering on the brink of death, and so marvellously was the prophecy fulfilled that the latter lived for about half a century after it, and attained to such heights that most of the territories of Persia were conquered and brought under the sway of Islam under his generalship, and millions of men came to be blessed with the wealth of Faith. He, then also served as the Governer of Iraq, and died in 55 A.H., and according to a report, in 58 A.H.

From this Tradition we again learn that it is not proper and

lawful for anyone leaving behind heirs and successors to bequeath more than one-third of his property in the way of God and for pious uses. A consensus is found among the Jurists of the *Ummah* on this point. But in one's own lifetime one can spend as much on such acts and purposes as one likes. The condition of one-third applies only to the Will a person makes about the division of his assets after his death.

A Will Cannot Be Made In Respect of An Heir

(١٨٢٠/١١٣) عَنْ اَبِىْ اُمَامَةَ قَالَ سَمِعْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ فِىْ خُطْبَتِهٖ عَامَ حَجَّةِ الْوِدَاعِ اِنَّ اللهَ اَعْطٰى كُلَّ ذِىْ حَقٍّ حَقَّهٗ فَلَا وَصِيَّةَ لِوَارِثٍ. (رواه ابو داؤد و ابن ماجه)

(1820/113) Abu Umamah ﷺ narrated that "I heard the Messenger of Allah ﷺ delivering a sermon during the year of the Farewell Haj. In the course of it, he said: "The Lord has, (in His Holy Book), determined the share of everyone having a lawful claim (among the heirs). So, it is not allowable now to make a Will in respect of an heir." (Abu Dawood and Ibn Majah)

Commentary: When, after the Migration, commandments relating to social and collective spheres of life began to be revealed, it was prescribed in the first place through the following verse of *Surah Al-Baqarah* that whoever owned some property should bequeath it, before his death, to his parents and other relatives:

كُتِبَ عَلَيْكُمْ اِذَا حَضَرَاَحَدَكُمُ الْمَوْتُ الايه (البقرة ٢:١٨٠)

It is prescribed for you when death approaches any one of you and if he leaves behind some wealth, to make a bequest to parents and near kindreds in an equitable way; (Al Baqarah 2:180)

Sometimes later, a complete law of inehritance was revealed in *Surah-an-Nissa*, which repealed the earlier command of *Wasiyat* (Will), at least in respect of legal heirs. Moreover, while the Messenger of Allah ﷺ announced many other essential rules and principles in the semon of the Farewell Haj he also declared that since by sending down the law of inheritance, the Lord had determined the share of all those who were legally entitled to inherit, no Will should, after it, be made in respect of an heir. It is

this commandment that Sayyidina Umamah ﷺ has spoken of and in *Mishkaatul Masabih*, after quoting the above Tradition from *Sunan-i-Abu Dawood* and *Ibn-i-Majah*, it is added that "in Dar Qutni it is related that the Messenger of Allah ﷺ said: "Now, a Will is not (valid) and lawful in respect of an heir except that the other heirs wish it and are agreeable to it." Or, in oehr words, if the heirs of a person were agreed that he left his possessions by Will to an heir, in excess of his lawful share, and they had no objection to it, the Will would have the force of law provided that the other heirs were major and of a sound mind.

Punishment of Hell For Those Who Are Unjust to Rightful Heirs in Their Will

(١٨٢١/١١٤) عَنْ اَبِىْ هُرَيْرَةَ عَنْ رَسُوْلِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اِنَّ الرَّجُلَ لَيَعْمَلُ وَالْمَرْأَةُ بِطَاعَةِ اللّٰهِ سِتِّيْنَ سَنَةً ثُمَّ يَحْضُرُ هُمَا الْمَوْتُ فَيُضَارِّ اِن فِى الْوَصِيَّةِ فَتَجِبُ لَهُمَا النَّارُ. (رواه احمد والترمذى و ابو داؤد و ابن ماجه)

(1821/114) It is narrated by Abu Hurayrah ﷺ that the Messenger of Allah ﷺ said: "Sometimes, it is so that a person leads a life of obedience to God for sixty years, and then as the time of his death approaches, he acts unjustly towards his rightful hieirs in his Will, (and), in consequence of it, Hell becomes inevitable for him."

(Musnad Ahamd, Tirmizi, Abu Dawood and Ibn Majah)

Commentary: Occasionally a person has legal heirs who are entitled by the *Shariah*, to inherit the property left by him after his death, but owing to one reason or another he makes his Will in favour of an outsider or for a particular use, with the object of depriving the heirs of their justful calim or takes some other steps of a like nature. According to this Tradition, it is such a grave sin that life-long devotion and obedience comes to nothing as a result of it, and he Divine Chastisement.

As we have seen earlier, in Sayyidina Sa'd ibn Abi Waqqa's ﷺ narrative, a person is permitted to bequeath his possessions to the extent of one-third to pious and charitable uses, provided, of course, that his inention is pure and free from vindictiveness.

LEGAL ADMINISTRATION

Judiciary is an important branch of government, and serves an essential need of a civilized society. The holy Prophet ﷺ has furnished a complete guidance in respect of it as well.

There was no judicail system as long as the Prophet ﷺ remained in Makkah, but after he alongwith his Companions ﷺ, had migrated to Madinah, and the Muslims had begun to live as a community, an order was set up for dispensing and administration of justice, in an elementry form. The Messenger of Allah ﷺ himself was the judge and arbiter, in addition to being the Divine Mesenger ﷺ. Disputes were brought to him and he decided them, and awarded punishment to the guilty in accordance with the Holy law. The following verses are addressed to him directly in the Qur'an:

وَاَنِ احْكُمْ بَيْنَهُمْ بِمَا اَنْزَلَ اللّٰهُ (المائدة ٥:٤٩)

And judge (O Prophet) between them according to what Allah has revealed. (Al Ma'idah 5:49)

اِنَّآ اَنْزَلْنَا اِلَيْكَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللّٰهُ

(النساء ٤:١٠٥)

Surely, We have revealed the Book to you (O Prophet) with truth so that you may judge between people by means of what Allah has shown you. (Al Nisaa 4:105)

The Holy Prophet ﷺ, thus, himself decided the cases between Muslims. From some reorts it appears that Sayyidina Umar ﷺ, too, used to hear and decide cases, in the Prophet's ﷺ lifetime in Madinah at his command. Later also sent Sayyidina Ali and Sayyidina Mu'ad رضی اللہ عنہما there to act as judges. The Holy Prophet ﷺ strictly enjoined on those who were charged with the

duty of dispensing justice to perform it to the best of their ability, and acquit themselves with honesty and fairness, and fearing of God. He gave the tidings of Divine help and guidance and an immense reward in the Hereafter to the bondmen who strove earnestlty to observe these instruction, and also make a mistake in the interpretation or application of law, they would not be called to account for it, but rewarded for good faith and eagerness.

As against it, the Prophet ﷺ administrered a severe warning of Divine wrath and punishment to bad and unfair rulers and judges and also laid down that only such men were to be appointed to such a position who were not solicitious of it.

Just And Unjust Rulers And Judges

(١٨٢٢/١١٥) عَنْ عَبْدِاللهِ بْنِ عَمْرِوبْنِ الْعَاصِ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ الْمُقْسِطِيْنَ عِنْدَاللهِ عَلٰى مَنَابِرَ مِنْ نُوْرٍ عَنْ يَمِيْنِ الرَّحْمٰنِ وَكِلْتَا يَدَيْهِ يَمِيْنٌ، اَلَّذِيْنَ يَعْدِلُوْنَ فِىْ حُكْمِهِمْ وَاَهْلِيْهِمْ وَمَا وُلُّوْا. (رواه مسلم)

(1822/115) It is narrated by Abdullah ibn Amr رضي الله عنه that the Messenger of Allah ﷺ said: "The bondsmen (among the rulers, judges and other officers of the Government) who exercise their authority with fairness and justice will in the Herefter be on the pulpits of light, (and) on the right-hand side of God — and both of His hands are rith hands — and these will be the men who are just and honest in thier decisons, and in the exercise of their powers with regard to afairs and concrns of the mernbers of thier families and other persons associated with them."

Commentary: In this, the great good tiding is given to rulers, judges ect., who take due care to be honest and impartial in their acts and judgments that in the Hereafter they will be treated with unique honour and ceremoney, and seated on puplits of light, on the right-hand side of the Almighty.

One can be misled into believing from the above Tradition that just as we have a right hand and a left hand, and the left hand is inferior to the right, the other hand of the Lord, too, will be the left one. The Prophet ﷺ, therefore, has made it clear that both the hands of God are right hands. He has no left hand.

It further goes to show that the words, *Yameen* (right) abd *Yadd*

(hand), used in this and some other Traditions, and Qur'anic verses, with relation to God, do not denote hands like ours. As it has been set forth candidly in the Qur'an:

لَيْسَ كَمِثْلِهٖ شَيْئٌ (الشورىٰ ٤٢:١١)

"There is nothing whosoever like unto Him." (Al Shurah 43:11)

As for what do words like *Yadd*, then, signify in that context, prudence lies in the acceptance and affirmation of the way and rule of conduct of the earlier Jurists seeing that we by our very nature are incapable of comprehending the essential meaning and reality of the Being and Attributes of the Lord.

The tidings contained at the end of the above Tradition are for the just and upright bondsmen who are honest and impartial in their judicail decisions as well as attitude towards the members of their families and other persons connected to them in realtionship, social affairs, business etc., and conduct themselves in a like manner if they happen to be the guardians of anyone or trustees of some property or institution.

It shows that the commandment of justice and uprightness and the reward promised on it does not relate merely to rulers and judges, but to everyone in his own sphere of activity.

(١٨٢٣/١١٦) عَنْ اَبِىْ سَعِيْدٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ اَحَبَّ النَّاسِ اِلَى اللهِ يَوْمَ الْقِيٰمَةِ وَاَقْرَبَهُمْ مِنْهُ مَجْلِسًا اِمَامٌ عَادِلٌ وَاِنَّ اَبْغَضَ النَّاسِ اِلَى اللهِ يَوْمَ الْقِيٰمَةِ وَاَشَدَّهُمْ عَذَابًا اِمَامٌ جَائِرٌ. (رواه الترمذى)

(1823/116) It is narrated by Abu Sa'eed Khudri ﷺ that the Messenger of Allah ﷺ said: "The most beloved of men in thde sight of God, on the Day of Resurrection, and the nearest to Him will be the just rulers, and the most hateful of men in the sight of God, on the Day of Resurrection, and farthest removed from Him will be the unjust and tyrannical rulers." (Tirmizi)

(١٨٢٤/١١٧) عَنْ عَبْدِاللهِ بْنِ اَبِىْ اَوْفٰى قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ اللهَ مَعَ الْقَاضِىْ مَالَمْ يَجُرْ فَاِذَا جَارَ تَخَلّٰى عَنْهُ وَلَزِمَهُ الشَّيْطَانُ. (رواه الترمذى)

(1824/117) It is narrated by Abdullah ibn Abi Awfa ﷺ that the

Messenger of Allah ﷺ said: "God is with the judge, i.e., His help and guidance is reaching him as long as he is just and fair, and when he (departs from the path of justice and fairness) and becomes unjust and tyrannical, he Lord leaves man alone and the Devil attaches himself to him." (Tirmizi)

Commentary: It tells that as long as a judge or ruler honestly desires to act justly and imparatially, the help and guidance of the Lord is available to him, but when his intention is changed and he adopts the course of injustice and tyranny, the Lord withholds His help, and he becomes a of the Devil.

Honest Error of Judgement

(١٨٢٥/١١٨) عَنْ عَبْدِاللهِ بْنِ عَمْرٍو وَ اَبِىْ هُرَيْرَةَ قَالَا قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِذَا حَكَمَ الْحَاكِمُ فَاجْتَهَدَ فَأَصَابَ فَلَهُ اَجْرَانِ وَ اِذَا حَكَمَ فَاجْتَهَدَوَ اَخْطَأَ فَلَهُ اَجْرٌ وَاحِدٌ. (رواه البخارى ومسلم)

(1825/118) It is narrated by Abdullah ibn Amr ibn al-Aas ؓ and Abu Hurayrah ؓ, they both relate, saying that the Messenger of Allah ﷺ said: "When a ruler has to decide a case, and, (in order to decide justly and correctly), he exerts himself and applies his mind, and decides correctly, he will get a double reward: (one of the intention and effort to decide justly, and the other for giving a fair and correct decision), and when he tries sincerely to get to the truth of the matter and decides correctly, and yet gives a wrong decision, he will get one reward (for endeavouring to arrive at a just and correct decision)."

(Bukhari and Muslim)

Commentary: Of primary importance in this Tradition, in the principle that if a judge, Jurist or ruler tries his level best to find out where the turth of the matter lies and what is the correrct legal position with regard to it, and even then fails to decide properly, he will still be deserving of reward in the judgement of God, for his intention was pure and he really wanted to decide with justice anyone can after all do. But, clearly it appertains only to people who are worthy of it, and the permission of *Ijthead* can evidently not be given to everyone irrespective of the qualifications.

As it is distinctly stated in the next Tradition, anyone who

proceeds to judge between people and give decisions without necessary knowledge and ability will go to Hell.

Rulers And Judges Who Deserve Heaven And Hell

(١٨٢٦/١١٩) عَنْ بُرَيْدَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَلْقُضَاةُ ثَلٰثَةٌ وَاحِدٌ فِى الْجَنَّةِ وَ اِثْنَانِ فِى النَّارِ فَاَمَّا الَّذِىْ فِى الْجَنَّةِ فَرَجُلٌ عَرَفَ الْحَقَّ فَقَضٰى بِهٖ وَرَجُلٌ عَرَفَ الْحَقَّ فَجَارَ فِى الْحُكْمِ فَهُوَ فِى النَّارِ، وَرَجُلٌ قَضٰى لِلنَّاسِ عَلٰى جَهْلٍ فَهُوَ فِى النَّارِ. (رواه ابو داؤد و ابن ماجه)

(1826/119) It is narrated by Baridah ﵁ that the Holy Prophet ﷺ said, There are three classes of Judges. One of them is for Heaven and two for Hell. The Judge who understood the truth and pronounced his Judgement accordingly deserves Heaven. The one who did understand the truth but gave adverse Judgement, he deserves Hell. Likewise the Judge who is not capable but enforces his judgement also deserves Hell.

(Abu Dawood, Ibn Majah)

To Bribe and To Accept Bribe Is a Curse

There are people who hire the Judges in Their Judgements through bribes. The Holy Prophet ﷺ has denounced both the giver and the recepient of bribe.

(١٨٢٧/١٢٠) عَنْ عَبْدِ اللّٰهِ بْنِ عَمْرٍو قَالَ لَعَنَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اَلرَّاشِىْ وَالْمُرْتَشِىْ (رواه ابو داؤد وابن ماجة ورواه الترمذى عنه وعن ابى هريرة)

(1827/120) It is narrated by Adullah ibn Amr ibn al-Aas ﵁ that the Messenger of Allah ﷺ cursed (both) the giver and the taker of bribes." (Abu Dawood and Ibn Majah)

(Tirmizi has quoted it, also, on the authority of Sayyidina Abu Hurayrah ﵁, in addition of Sayyidina Abdullah ibn Amr ﵁).

Commentary: The imprecation of anyone by God or His Messenger ﷺ is an expression of extreme displeasure, and a most severe punishment. Condemnation by God shows that He has decided to deprive the wrong-doer of His benevolence while by the Prophet ﷺ or Angel is in the nature of a prayer against him that he

may be excluded from Divine mercy. The Tradition would, thus mean that the Messenger of Allah ﷺ has indicated an excessive dislike for those who give or recieve bribes and invoke the wrath of God against them.

In some accounts of the same narative, it is stated that apart from the giving and taking of bribe, the holy Prophet ﷺ also, condemned the tout who acted as a middle-man between the two.

To Be A Ruler or Judge is A Severe Test

(١٨٢٨/١٢١) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ جُعِلَ قَاضِيًا بَيْنَ النَّاسِ فَقَدْ ذُبِحَ بِغَيْرِ سِكِّيْنٍ (رواه احمد والترمذى وابوداؤد و ابن ماجه)

(1828/121) It is narrated by Abu Hurayrah ؓ that the Messenger of Allah ﷺ said: "Whoever was appointed a judge to decide the disputes between men was stabbed without a knife." (Musnad Ahmad, Tirmizi, Abu Dawood and Ibn Majah)

Commentary: A person who is stabbed with a knife will die in a few minutes while if an attempt is made to stab anyone without a knife, it will naturally prolong the agony. The substance of this Traidtion is that to function as judge is to put oneself to a severe trial, and whoever accepts the offer should know that he wears a crown of throns.

(١٨٢٩/١٢٢) عَنْ اَبِىْ هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ اِنَّكُمْ سَتَحْرِصُوْنَ عَلَى الْاِمَارَةِ وَسَكُوْنُ نَدَامَةً يَوْمَ الْقِيٰمَةِ فَنِعْمَتِ الْمُرْضِعَةُ وَبِئْسَتِ الْفَاطِمَةُ. (رواه البخارى)

(1829/122) It is narrated by Abu Hurayrah ؓ that the Messenger of Allah ﷺ said: "A time will come when you will covet public offices, and it will be the cause of regret and repentance in the Hereafter. Very pleasing looks power and rule which takes one in the arms and suckles, and very displeasing does it look when it ceases to nurse from the breast."

Commentary: It had been revealed to the Prophet ﷺ that in time to come his followers will become greedy of the loaves and fishes of office and in this Tradition, he has warned that they will be grieved on the Day of Judgement.

It, further tells that when a person comes in power and authority it looks very nice and agreeable to him, as the nurse looks to the child who suckles it, and when he is divested of it owing to one reason or another it looks awfully bad, as the nurse looks to the child who stops feeding it from the breast and accustoms it to take nourishment otherwise than by nursing.

The moral is that seekers of power should not be unmindful of the sequel of the Hereafter. On the Day of Reckoning they will have to render a full account regarding the rights of countless of men over whom they ruled or exercised authority in one form of the other.

An effect of saying like these of the holy Prophet ﷺ was that the Companions ﷺ preferred to keep away from public offices. As Tirmizi tells, during his Caliphate, Sayyidina Usman ﷺ wanted to appoint Sayyidina Abdullah ibn Umar ﷺ a judge, but the later declined.

Divine Help And Guidance is Withheld From The Seekers of Power

(١٨٣٠/١٢٣) عَنْ عَبْدِالرَّحْمٰنِ بْنِ سَمُرَةَ قَالَ قَالَ لِىَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَا تَسْئَلِ الْاِمَارَةَ فَاِنَّکَ اِنْ اُعْطِيْتَهَا عَنْ مَسْئَلَةٍ وُكِلْتَ اِلَيْهَا وَاِنْ اُعْطِيْتَهَا عَنْ غَيْرِ مَسْئَلَةٍ اُعِنْتَ عَلَيْهَا. (رواه البخارى و مسلم)

(1830/123) Abdul Rahman ibn Samurah ﷺ narrated to us, saying that the Messenger of Allah ﷺ said to him: "Do not ask for a public position for if it is given to you at your request (or solicitation), you will be turned over to it, i.e., left to discharge the responsibility without help and guidance from the Lord, while if it is given to you without asking, you will be helped by God." (Bukhari and Muslim)

(١٨٣١/١٢٤) عَنْ اَنَسٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنِ ابْتَغَى الْقَضَاءَ وَسَأَلَ وُكِّلَ اِلٰى نَفْسِهٖ وَمَنْ اُكْرِهَ عَلَيْهِ اَنْزَلَ اللهُ عَلَيْهِ مَلَكًا يُسَدِّدُهٗ.

(رواه الترمذى و ابو داؤد و ابن ماجه)

(1831/124) It is narrated by Anas ﷺ that the Messenger of Allah ﷺ said: "Whoever, will be desirous of the office of a

judge and obtain it through soclicitation will be handed over to himself. (He will be left to discharge his responsibilites on his own which is most difficult and dangerous). And whoever will be persuaded to accept the office, (against his desire), God will appoint a special Angel for his guidance."

(Tirmizi, Abu Dawood and Ibn Majah)

Commentary: The sum and substance of both the Traditions is that one should not covet public offices and positions. Anyone who will do so, will not be favoured with Divine help and guidance in the discharge of his duties. On the contrary, a person who is entrusted with power or responsibility without a request or effort on his part, and accepts it, putting his trust in God, it is the promise of the Lord that His support and guidance will be made available to him.

Some Guidelines For The Judges

(١٨٣٢/١٢٥) عَنْ مُعَاذِ بْنِ جَبَلٍ اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَمَّا بَعَثَهُ اِلَى الْيَمَنِ قَالَ كَيْفَ تَقْضِىْ اِذَا عَرَضَ لَكَ قَضَاءٌ قَالَ اَقْضِىْ بِكِتَابِ اللهِ' قَالَ فَاِنْ لَّمْ تَجِدْ فِىْ كِتَابِ اللهِ ؟ قَالَ فَبِسُنَّةِ رَسُوْلِ اللهِ ؟ قَالَ فَاِنْ لَّمْ تَجِدْ فِىْ سُنَّةِ رَسُوْلِ اللهِ قَالَ اَجْتَهِدُ بِرَأى وَلَا آلُوْا قَالَ فَضَرَبَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلٰى صَدْرِهٖ وَقَالَ الْحَمْدُ لِلّٰهِ الَّذِىْ وَفَّقَ رَسُوْلَ رَسُوْلِ اللهِ لِمَا يَرْضٰى بِهٖ رَسُوْلُ اللهِ.

(رواه الترمذی و ابو داؤد والدارمی)

(1832/125) It is narrated by Mu'az ibn Jabal ﵁ that when the Messenger of Allah ﷺ sent him out as the Governer of Yemen, he asked him how he would decide matters coming up before him." I will decide matters according to the Book of God, (the Qur'an)," replied Mu'az ﵁. "What will you do if the Book of God contains nothing to guide you?" the Prophet ﷺ asked. 'Then,' said Mu'az, "I will act on the precedents of the Messenger of Allah ﷺ (the Sunnah)." And if the precedents also fail, what will you do?" asked the Prophet ﷺ. "I will, then, do *Ijthead*, i.e., exert to form my own judgement, and spare no effort to arrive at a correct decision.' Mua'z ﵁ replied. On hearing the reply, the Prophet ﷺ patted Mu'az ﵁ and said: "Praised be the Lord who granted wisdom to the envoy (or agent) of the Messenger of Allah ﷺ that is pleasing to the

Messenger ﷺ." (Tirmizi Abu Dawood and Daarami)

Commentary: Sayyidina Mu'az ibn Jabal رضي الله عنه was one of the Companions who were distinguished for their knowledge of the Quran and the *Sunnah* and possessed a deep understanding of Faith. He was appointed the Governor of Yemen by the holy Prophet ﷺ. Owing to the education Sayyidina Mu'az رضي الله عنه had recieved at the hands of the Prophet ﷺ and as a result of the close observation of his ways and practices, he had learnt and sought from the Qur'an, and, if it was not found in it, recourse should be taken to the practice of the Prophet ﷺ, and if it, too, did not help, one should try to form one's own judgement in the light of the Qur'an and Sunnah. Thus, when Sayyidina Mu'az رضي الله عنه was going to Yemen to take charge as the Governor, the holy Prophet ﷺ asked him, by way of a test, on what basis would he govern and decide matters that would come up before him. The reply Sayyidina Mu'az رضي الله عنه gave has been seen in the above Tradition.

The main significance of this Tradition lies in the fact that it provides the clearest and most explicit foundation of the principle of *Ijthead*, and the Jurists of all ages, have sought guidance from it, and decided thousands of legal questions on the basis of it, regarding which no precise directions were available in the Qur'an and the Sunnah.

It may be noted that the documentary evidence of the transmission of this Tradition is not firm, but weak, according to the canons laid down by the authorities, yet the Muslim jurists have unanimously accepted it as reliable, and the institution of *Ijthead* in Islam is founded upon it. As scholars like Ibn Qaiyyim have remarked, it would be futile to look for a further proof of its authenticity after the Jurists had accepted it as true and reliabe.

It also denotes that *Ijthead* on a legal matter is called for only when no clear guidance is available in the Qur'an and the Sunnah.

(١٨٣٣/١٢٦) عَنْ عَبْدِاللهِ بْنِ الزُّبَيْرِ قَالَ قَضٰى رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَنَّ الْخَصْمَيْنِ يَقْعُدَانِ بَيْنَ يَدَىِ الْحَاكِمِ. (رواه احمد و ابو داؤد)

(1833/126) It is narrated by Abdullah ibn Zubair رضي الله عنه that the Messenger of Allah ﷺ said that "both the parties in a case

should sit in front of the judge."(Musnad Ahmad and Abu Dawood)

Commentary: It shows that both the parties in a law-suit, the plaintif and the defendant, ought to be treated equally by the Court, and no preferential treatment shown to anyone, whatever the consideration. The seating arrangement for them should, also, be the same.

(١٨٣٤/١٢٧) عَنْ عَلِيٍّ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِذَا تَقَاضٰى اِلَيْکَ رَجُلَانِ فَلَا تَقْضِ لِلْاَوَّلِ حَتّٰى تَسْمَعَ كَلَامَ الْاٰخَرِ فَسَوْفَ تَدْرِىْ كَيْفَ تَقْضِى' قَالَ عَلِىٌّ فَمَا زِلْتُ قَاضِيًا بَعْدَ هٰذَا. (رواه الترمذى)

(1834/127) Sayyidina Ali ﷺ narrated to us, saying that the Messenger of Allah ﷺ said to him: "When two persons come to you (with a dispute) for decision, do not pronounce the judgement on hearing the first party alone, until you have also heard the statement of the other party. If you act accordingly, you will know and understand how and what you are going to decide." Ali ﷺ added that "since then I have always been acting as a judge." (Tirmizi)

Commentray: The bove narative of Sayyidina Ali ﷺ has, also, been reproduced in *Sunan Abu Dawood* and *Ibn Majah*, and, in these versions of it, it is stated that when the holy Prophet ﷺ decided to send Sayyidina Ali ﷺ to Yemen as the judge, the later submitted that he was young in years and had no experinece of hearing and deciding cases. The Prophet ﷺ thereupon, assured him that the Lord would help him in the discharge of his responsibilities and cause him to decide justly. He, further, advised him not to form an opinion until he had heard both the sides in a dispute.

What the holy Prophet ﷺ had said about Sayyidina Ali ﷺ in this Tradition manifested in itself the manner that the latter was prominent among the Companions ﷺ in the decision of disputes and his judgements were believed to be the last word.

(١٨٣٥/١٢٨) عَنْ اَبِىْ بَكْرَةَ قَالَ سَمِعْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ لَا يَقْضِيَنَّ حَكَمٌ بَيْنَ اِثْنَيْنِ وَ هُوَ غَضْبَانٌ. (رواه البخارى ومسلم)

(1835/128) It is narrated by Abu Bakrah ﷺ that the Messenger of Allah ﷺ said: "No judge should give his decision (in a matter) when he is in a state of anger." (Bukhari and Muslim)

Commentary: A man is not in a proper frame of mind when he is angry, and that is why, the holy Prophet ﷺ has told the judges to avoid deciding cases when they are enraged. It requires a cool and balanced mind to hear and decide as a judge.

Evidence is Essential For A Claim

If a person files a suit against anyone, however trustworthy, virtuous or distinguished he may be, the case cannot be decided in his favour simply on the basis of his claim. In the Islamic law, a plaint or charge must be supported by proof of required standard. If the plaintiff fails to produce adequate evidence, and the defendant denies the charge, the latter must declare on oath that the complaint is false and, in case he declines to take such an oath, the complaint will be regarded to be founded on truth, and the case will be decreed against him, and if he declares on oath that the complaint is untrue, the suit will be decided in his favour.

(١٨٣٦/١٢٩) عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ لَوْيُعْطَى النَّاسُ بِدَعْوَاهُمْ لَا دَّعٰى نَاسٌ دِمَاءَ رِجَالٍ وَاَمْوَالَهُمْ وَلٰكِنَّ الْيَمِيْنَ عَلَى الْمُدَّعٰى عَلَيْهِ. (رواه مسلم)

(1836/129) It is narrated by Abdullah ibn Abbas ﷺ that the Messenger of Allah ﷺ said: "If judgement is given in favour of persons simply on the basis of complaint, they will begin to sue others (freely), and make all sorts of charges (against them), in respect of life and property. But no case can be decided in anyone's favour (simply on his complaint). (Evidence will have to be produced, and, in case it is not forthcoming), the defendant will be called upon to deny the charge on oath." (Muslim)

Commentary: That the plaintiff will be required to produce evidence is not mentioned in Sayyidina Abdullah ibn Abbas's ﷺ narrative appearing in *Sahih Muslim*, but Imam Nawavi, in his Tradition, with authentic evidence of transmission, and it includes

the provision. Imam Nawavi's remark has also been reproduced in Mishkaat, alongwith Sayyidina Abdullah ibn Abbas's ﷺ narrative. It is for this reason that we have added the passage under review with in brackets in the translation of this Tradition.

Traditions bearing the same import have been related y a number of other Companions ﷺ as well.

(١٨٣٧/١٣٠) عَنِ الْاَ شْعَثِ بْنِ قَيْسٍ قَالَ كَانَ بَيْنِىْ وَبَيْنَ رَجُلٍ مِنَ الْيَهُوْدِ اَرْضٌ فَجَحَدَنِىْ فَقَدَّ مْتُهُ اِلَى النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَقَالَ اَلَكَ بَيِّنَةٌ قُلْتُ لَا قَالَ لِلْيَهُوْدِيِّ اِحْلِفْ قُلْتُ يَا رَسُوْلَ اللّٰهِ اِذًا يَّحْلِفُ يَذْهَبُ بِمَالِىْ فَاَنْزَلَ اللّٰهُ تَعَالٰى اِنَّ الَّذِيْنَ يَشْتَرُوْنَ بِعَهْدِاللّٰه وَاَيْمَانِهِمْ ثَمَنًا قَلِيْلًا اُوْلٰٓئِكَ لَاخَلَاقَ لَهُمْ فِى الْاٰخِرَةِ وَلَا يُكَلِّمُهُمُ اللّٰهُ وَلَا يَنْظُرُ اِلَيْهِمْ يَوْمَ الْقِيٰمَةِ وَلَا يُزَكِّيْهِمْ وَلَهُمْ عَذَابٌ اَلِيْمٌ (اٰل عمران ٣:٧٧)

(1837/130) Ash'ath ibn Qays narrated to us, saying that "a (plot of) land was jointly owned by me and a Jew. The Jew repudiated my claim (and became the sole owner). I took the Jew to the Messenger of Allah ﷺ (and presented my case before him). The Messenger of Allah ﷺ asked me if I had any evidence, (a witness etc.,) to support my claim to which I replied in the negative. He, thereupon, told the Jew that (if he did not admit my claim), he should declare on oath that the land belonged solely to him and I had no share in its ownership. I , (then), said to the Messenger of Allah ﷺ that the Jew will take a (false) oath and arrogate my property. Upon it, the following verse (of the Qur'an) was revealed:

اِنَّ الَّذِيْنَ يَشْتَرُوْنَ بِعَهْدِاللّٰه وَاَيْمَانِهِمْ ثَمَنًا قَلِيْلًا اُوْلٰٓئِكَ لَاخَلَاقَ لَهُمْ فِى الْاٰخِرَةِ وَلَا يُكَلِّمُهُمُ اللّٰهُ وَلَا يَنْظُرُ اِلَيْهِمْ يَوْمَ الْقِيٰمَةِ وَلَا يُزَكِّيْهِمْ وَلَهُمْ عَذَابٌ اَلِيْمٌ (اٰل عمران ٣:٧٧)

Surely those who barter Allah's Government and their oaths, for a small price — there shall be no share for them in the Hereafter; and Allah shall not speak to them, nor shall He look on them on the Day of Resurrection, nor shall He purify them and for them is a painful Chastisement. (Aal-e-Imran 3:77)

(Abu Dawood and Ibn Majah)

Commentary: It tells that even if in a law-suit the plaintiff is a Muslim and the defendant a non-Muslim, the same law will apply, and in case of plaintiff's failing to produce evidence in support of his claim, the denial, on oath of the defendant will hold good. If the defendant has, really, been dishonest and taken a false oath, his affair rests with God, and a dreadful penalty awaits him in the Hereafter.

(١٨٣٨/١٣١) عَنْ عَلْقَمَةَ بْنِ وَائِلٍ عَنْ اَبِيْهِ قَالَ جَاء رَجُلٌ مِنْ حَضْرَ مَوْتَ وَرَجُلٌ مِنْ كِنْدَةَ اِلَى النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَقَالَ الْحَضْرَ مِيُّ يَا رَسُوْلَ اللهِ اِنَّ هٰذَا غَلَبَنِيْ عَلٰى اَرْضٍ لِيْ فَقَالَ الْكِنْدِيْ هِيَ اَرْضِيْ وَ فِيْ يَدِيْ لَيْسَ لَهُ فِيْهَا حَقٌّ فَقَالَ النَّبِيُّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ لِلْحَضْرَمِيِّ اَلَکَ بَيِّنَةٌ؟ قَالَ لَا قَالَ فَلَکَ يَمِيْنُهُ؟ قَالَ يَارَسُوْلَ اللهِ اِنَّ الرَّجُلَ فَاجِرٌ لَا يُبَالِيْ عَلٰى مَاحَلَفَ عَلَيْهِ وَلَيْسَ يَتَوَرَّعُ مِنْ شَيْئٍ قَالَ لَيْسَ لَکَ مِنْهُ اِلَّا ذَالِکَ فَانْطَلَقَ لِيَحْلِفَ فَقَالَ رَسُوْلَ اللهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ لَمَّا اَدْبَرَ لَئِنْ حَلَفَ عَلٰى مَالِهٖ لِيَاكُلَهُ ظُلْمًا لَيَلْقَيَنَّ اللهَ وَهُوَ عَنْهُ مُعْرِضٌ. (رواه مسلم)

(1838/131) Alqama ibn Wa'il ﷺ narrated, on the authority of his father, that a citizen of Hadrmaut and another person belonging to the tribe of Kinda, brought up their dispute before the Messenger of Allah ﷺ (for decision). The Hazrami, who was the plaintiff, submitted that the *Kindi* (meaning the person belonging to the tribe of *Kinda*) had unlawfully occupied his land while the Kindi (who was the defendant), pleaded that the land, actually, belonged to him and was in his possession. The Prophet ﷺ enquired from the Hazrami if he could produce any evidence in support of his claim to which he replied that he could not. The Prophet ﷺ, then, told him that in that case, all that he could do was to take an oath from the defendant. The Hazrami said the defendant was a wicked person; he did not care for what he was swearing and would not stop at anything. The Prophet ﷺ observed that (whatever it might be), (when the plaintiff could not produce any proof or evidence), the only course open to him was to take the oath from the defendant. As the Kindi Proceeded to take the oath, the Messenger of Allah ﷺ (warned him), saying that if he swear a false oath in order to

usurp the appellant's property, he will appear before God, on the Day of Reckoning (in such a condition that the Lord will turn His face away from him in anger." (Muslim)

Commentary: It is not mentioned in the above report, as quoted in Sahih Muslim, whether the Kindi took the oath or not, but in Ash'as ibn Qais's account of the same incident, appearing in *Sunan-i-Abu Dawood*, it is added that the defendant, at last, admitted that the land belonged to the plaintiff, and the Messenger of Allah ﷺ decided the case in Hazrami's favour.

The Ultimate Abode of Those Who Lay A False Claim or Swear a Flase Oath is Hell

(١٨٣٩/١٣٢) عَنْ اَبِىْ ذَرٍّ اَنَّهُ سَمِعَ رَسُوْلَ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ مَنِ ادَّعٰى مَا لَيْسَ لَهُ فَلَيْسَ مِنَّا وَلْيَتَبَوَّءْ مَقْعَدَهُ مِنَ النَّارِ. (رواه مسلم)

(1839/132) Abu Zarr Ghiffari ؓ narrated that the Messengr of Allah ﷺ said: "Whoever laid a claim to a thing that was not his is not from us. He will do well to make his home in Hell." (Muslim)

Commentary: Can there be a more woeful punishment for anyone claiming to be a Muslim than that the holy Prophet ﷺ may say about him "he is not from us", and his ultimate resting-place is Hell?

(١٨٤٠/١٣٣) عَنْ اَبِىْ اُمَامَةَ قَالَ قَالَ رَسُوْلُ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ مَنِ اقْتَطَعَ حَقَّ امْرِءٍ مسلمٍ بِيَمِيْنِه فَقَدْ اَوْجَبَ اللّٰهُ لَهُ النَّارَ وَحَرَّمَ عَلَيْهِ الْجَنَّةَ فَقَالَ لَهُ رَجُلٌ وَاِنْ كَانَ شَيْئًا يَسِيْرًا يَا رسول الله قَالَ وَاِنْ كَانَ قَضِيْبًا مِنْ اَرَاكٍ. (رواه مسلم)

(1840/133) It is narrated by Abu Umamah ؓ that the Messenger of Allah ﷺ said: "Whoever appropriated the right of a Muslim by swearing a false oath (and acquired his property without right). (from a court). God made the Fire of Hell inevitable for him and debarred him from entering Paradise." On hearing it, a Companion enquired: "O Messenger of Allah ﷺ! Even if It was a minor thing?" "Yes," the Prophet ﷺ replied. "Even if it was a twig of piloo."[1]

[1]. A plant that grows wild and the twigs of which are used for cleansing the teeth.

Commentary: It shows that even if a person acquired a most ordinary and low-priced thing belonging to someone else by taking a false oath in the court, he committed such a grave sin that he will undergo the punishment of Hell for it.

The words "appropriated the right of a Muslim" have been used in this Tradition for the simple reason that the society of Madinah was a Muslim society, and it were the disputes between the Muslims that were, generally brought before the Prophet ﷺ for decision. Otherwise, to obtaining the property of a non-Muslim by swearing a false oath is as much a sin as obtainin the property of a Muslim, a clear proof of which is available in the Qur'anic verse, quoted in an ealier narrtive, (No. 1590), about punishment on swearing a false oath.

Even The Prophet's Decision Cannot Make Anyone Else's Property Lawful

Someitmes, a clever litigator lays his claim on someone else's property and mainpulates the evidence in the truth and gets his case decided in his favour. But the property in dispute does not become lawful for such a plaintiff or defendant by the decision of the judge. It remains unlawful and the deceitful litigator makes his way to Hell.

As the Mesenger of Allah ﷺ has said, he too was a mortal and could after all be misled by a skilful and glib-tongued person and give a wrong judgement, but even his judgement could not make an unlawful thing lawful.

(١٨٤١/١٣٤) عَنْ أُمِّ سَلَمَة اَنَّ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ اِنَّمَا اَنَا بَشَرٌ وَ اِنَّكُمْ تَخْتَصِمُوْنَ اِلَيَّ وَلَعَلَّ بَعْضَكُمْ اَن يَّكُوْنَ اَلْحَنَ بِحُجَّتِهٖ مِنْ بَعْضٍ فَاَقْضِي لَهٗ عَلٰى نَحْوِمَا اَسْمَعُ مِنْهُ فَمَنْ قَضَيْتُ لَهٗ بِشَيْئٍ مِنْ حَقِّ اَخِيْهِ فَلَا يَاْخُذُنَّهٗ فَاِنَّمَا اَقْطَعُ لَهٗ قِطْعَةً مِنَ النَّارِ. (رواه البخارى و مسلم)

(1841/134) It is narrated by Umm Salmah رضى الله عنها that the Mesenger of Allah ﷺ said: " I am a mortal and you bring your disputes to me (for decision). It can be that one of you is a more eloquent and convincing pleader (of his case) than the other, and, then, I am influenced by (his skill), and decide the case in his favour. So in that case the person in whose favour I decide

that his brother's property belongs to him must not take possession of it. What I give to him (by my decision), (as a result of a flase oath or claim), is for him a portion of Hell (from the point of view of the sequel)." (Bukhari and Muslim)

False Swearing is The Worst Form of Sin

(١٨٤٢/١٣٥) عن عبدالله بن أنيس قال قال رسول الله صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ اِنَّ مِنْ اَكْبَرِ الْكَبَائِرِ الشِّرْكُ بِاللهِ وَعُقُوْقُ الْوَالِدِيْنِ وَالْيَمِيْنُ الْغُمُوْسُ وَمَا حَلَفَ بِاللهِ حَالِفٌ يَمِيْنَ صَبْرٍ فادخل فيها مثل جناح بعوضةٍ اَلَّا جُعلتْ نكتة فى قلبه اِلى يوم القيٰمة. (رواه الترمذى)

(1842/135) It is narrated by Abdullah ibn Unais ﷺ that the Mesenger of Allah ﷺ said: "The greatest (and most loathsome) of the major sins are: to associate anyone with God; to disobey parents; (and) to swear a false oath consciously (before a judge or officer). Whoever takes an oath in a court and violates it even to the extent of the weight of a gnat, i.e., mixes falsehood with it in the smallest degree, a scar is made on his heart in the preparation for the Day of Judgement. (The punishment of it will be made manifest on the Day of Resurrection)." (Tirmizi)

(١٨٤٣/١٣٦) عَنْ خُرَيْم بن فاتكٍ قَالَ صلّى رسول الله صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ صلوٰة الصبح فلما انصرف قام قائمًا فقال عُدِلت شهادة الزور بالاشراک بالله ثلث مَرَّاتٍ ثم قرأ فَاجْتَنِبُوا الرِّجْسَ مِنَ الْاَوْثَانِ وَاجْتَنِبُوْا قَوْلَ الزُّوْرِ حُنَفَآءَ لِلّٰهِ غَيْرَ مُشْرِكِيْنَ بِهٖ (الحج ٢٢: ٣٠-٣١) (رواه ابو داؤد)

(1843/136) Khuzaym ibn Fatik ﷺ narrated that (one day) the Mesenger of Allah ﷺ offered up the morning (*Fajr*) prayer, and when he had finished it, he got up and said: 'False swearing has been made the equivalent (in significance) of Polytheism.' Mesenger of Allah ﷺ said it thrice, and, then recited the following verse of the Qur'an:

فَاجْتَنِبُوا الرِّجْسَ مِنَ الْاَوْثَانِ وَاجْتَنِبُوْا قَوْلَ الزُّوْرِ حُنَفَآءَ لِلّٰهِ غَيْرَ مُشْرِكِيْنَ بِهٖ
(الحج ٢٢: ٣٠،٣١)

So shun the abomination of the idols, and shun the speaking of falsehood, being upright man of pure faith, not associating

anything with Him. (Al Hajj 22:30,31) (Abu Dawood)

People Whose Depositions Are Not Worthy of Trust

(١٨٤٤/١٣٧) عن عمرو بن شعيب عن ابيه عن جدّه عن النبى صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قال لَاتَجُوْزُ شَهَادَةُ خَائِنٍ وَلَا خَائِنَةٍ وَّلَا زَانٍ وَّلَا زَانِيَةٍ وَلَا ذِىْ غِمرٍ عَلٰى اَخِيْهِ وَرَدَّ شَهَادَةَ الْقَانِعِ لِاَهْلِ الْبَيْتِ. (رواه ابو داؤد)

(1844/137) Amr ibn Shu'ayb narrated to us, on the authority of his father, Shu'ayb, and he on he authority of his grandfather, Abdullah ibn Amr ibn al-Aas ﷺ, saying that the Mesenger of Allah ﷺ said: "The deposition of a man who is guilty of breach of faith, and in the same way, of a woman who is guilty of breach of faith is not dependable, and the deposition of an adulterer or adulteress is not dependable, and the deposition of a person who bears enmity will not be reliable against the brother against whom he bears enmity, and the depostion of a person who is dependent on a family (for his livelihood and other necessities of life) can not relied upon in support of its members." (Abu Dawood)

Commentary: In the first place, it speaks of men and women who are guilty of breach of trust and adultery that their evidence cannot be relied upon. The two sins have been mentioned here by way of an example, otherwise the basic law and principle is that the evidence of anyone who has committed grave and hateful sins like these is not reliable. The commission of such misdeeds shows that there is no fear of God in his heart, and hence he cannot be depended upon for veracity and truthfulness. The reason for the unreliability of the evidence of anyone against a person with whom he is on unfriendly terms is self-evident. Similarly, the evidence of anyone who is attached to a family and relies on it for support will not be acceptable if he deposes in its favour. Thus we can conclude that the evidence of persons belonging to the same family, in support of one another, is even more unworthy of reliance.

SYSTEM OF GOVERNMENT

Islam, as we know, is comprehensive of all the departments of life, both individually and collectively. Like fundamental articles of faith, worship, morality, social behaviour and monetary transactions, it deals with government and administration as well and furnishes necesary guidance with regard to them. In fact, government forms a most important branch of it it for it exercises a profound influence on many other spheres of human existence also.

When, after the Migration, a Muslim society was formed in Madinah, an informal type of Government, too, had come to be established, and the Mesenger of Allah ﷺ, together with being the Mesenger of Allah ﷺ, also, acted as its head. The Prophet ﷺ lived for about ten yeaers after the Migration and during it, the frontiers of the Islamic State expanded so steadily and quickly that the whole of Arabia, and even Yemen and Bahrain, were under its control and authority in his own lifetime. During those ten years, had all the functions as the head of a State, as were then understood, were carried out by him as the Almighty wanted him to perform. He did *Jihad* for the Victory of the Word of God and fought wars against the forces that were opposed to the establishment of the sovereignty of the Lord over His bondsmen and put impediments in its path, as well as made peace, set up a system for the realisation of *Jizyah*[1], *Khiraj*[2], and *Zakat*, and appointed governers, judges and other officers for territories accepting the Muslim rule, and gave instruction regarding all these affairs.

The ten-year rule of the holy Prophet ﷺ and his sayings on the subject contain a full provision for the basic guidance of Muslim

❶. A supplementary tax levied on non-Muslim subjects of an Islamic State in exemption of military service.

❷. Meaning a tax, tribute or revenue.

States and their rulers. The four Companions, Sayyidina Abu Bakr, Sayyidina Umar, Uthman, and Sayyidina Ali ﷺ, who one after the other, succeeded the Prophet ﷺ as his deputies and heads of the Islamic State did their best, paying due attention to the peculiar needs and conditions of their time, to follow, in all respects, his ways, manners of conduct and instructions while discharging their duties, and it is for this reason that they are known as *Khulfa-i-Rashideen,* (the Rightly-guided Caliphs). Only a government which wholly abides by the teachings and example of the Prophet ﷺ, to the best of its ability, deserves to be called *Khilaft-i-Rashida.*

Exhorting The People To Obey The Ruler, And The Ruler to Observe Piety And be Just

(١٨٤٥/١٣٨) عَنْ اَبِىْ هُرَيْرَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ اَطَاعَنِىْ فَقَدْ اَطَاعَ اللهَ وَمَنْ عَصَانِىْ فَقَدْ عَصَى اللهَ وَمَنْ يُّطِعِ الْاَمِيْرَ فَقَدْ اَطَاعَنِىْ وَمَنْ يَّعْصِ الْاَمِيْرَ فَقَدْ عَصَانِىْ وَاِنَّمَا الْاِمَامُ جُنَّةٌ يُّقَاتَلُ مِنْ وَّرَائِهٖ وَيُتَّقٰى بِهٖ فَاِنْ اَمَرَ بِتَقْوَى اللهِ وَعَدَلَ فَاِنَّ لَهٗ بِذَالِكَ اَجْرًا وَاِنْ قَالَ بِغَيْرِهٖ فَاِنَّ عَلَيْهِ مِنْهُ

(رواه البخارى و مسلم)

(1845/138) It is narrated by Abu Hurayrah ﷺ that the Mesenger of Allah ﷺ said: "Whoever obeyed me obeyed God, and whoever disobeyed me diobeyed God, and whoever obeyed the Amir[1] obeyed me, and whoever disobeyed the Amir disobeyed me; and the Amir is the shield; fighting is done behind him, and guarding (against an opponent's attack) is done with him. Thus, if he (the Amir) gives the command of piety and be God fearing and follows the path of justice, there is an immense reward for him, and if he acts otherwise, he will have to pay the penalty for it." (Bukhari and Muslim)

Commentary: Says the Qur'an:

مَنْ يُّطِعِ الرَّسُوْلَ فَقَدْ اَطَاعَ اللّٰهَ (النساء ٤:٨٠)

Whosoever obeys the Messenger ﷺ, he indeed obeys Allah.
(Al Nisaa 4:80)

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1. Literally, 'one who holds authority'. In Arabic and in the speical phraseology of the Quran and the Traditions, it denotes the 'ruler'.

The reason is plain. Whatever commands the Prophet ﷺ gives are from Allah, and it is His Will and Command that these should be obeyed. Hence, compliance with the commands of the prophet denotes compliance with the commands of God, and violation of the commands of the Prophet ﷺ denotes violation of the commands of God. Again, as it is by Allah's command that the Prophet ﷺ has declared that the Amir should be obeyed and his order and instructions carried out faithfully, provided, of course, that these are not opposed to *Shariah*, obedience to the Amir will mean obedience to the Prophet ﷺ, and, converssely, disobedience to the Amir will man disobedience to the Prophet ﷺ.

The aim of the above Tradition, apparently, is to emphasise the importance of rendering obedience to the ruler in what is lawful and legitimate, by indication that to obey or disobey the Amir is to obey or disobey Prophet ﷺ, and, indirectly, God Himself.

It, further tells taht the ruler is like the shield which is used for protection and defence. The Amir, thus, is the defender and custodian of Faith and protector of Muslims. It is a special function and responsibility for which he may, sometimes, even have to take up arms. Consequently, it is essential for Muslims to obey the Amir and carry out his order for, without it, he cannot fulfil the duty of defence and protection.

Lastly, those who are in power and authority are told to observe piety and justice, and keep it always in the mind that Allah is watching over them and they will have to appear before Him on the Day of Judgement and render a full account of the things done by them as rulers. For them, there is a vast reward in the Hereafter if they act and behave like that, or else a grevious penalty awaits them.

(١٣٩/١٨٤٦) عَنْ مُعَاوِيَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَا مُعَاوِيَةُ اِنْ وُلِّيْتَ اَمْرًا فَاتَّقِ اللهَ وَاعْدِلْ، قَالَ فَمَازِلْتُ اَظُنُّ اِنِّيْ مُبْتَلًى بِعَمَلٍ لِقَوْلِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. حَتَّى ابْتُلِيْتُ. (رواه احمد)

(1846/139) It is narrated by Mua'wiya رضي الله عنه that the Messenger of Allah ﷺ had once told him that if he was appointed as Amir, he should make the fear of God, and justice and fairness his

practice. Mua'wiya ﵁ says that "owing to this edict of the Prophet ﷺ, I had a constant feeling that I was going to be entrusted with the responsibility of government until I was, from the side of God." (Musnad Ahmad)

Commentary: The moral of this Tradition for the rulers is the same as of the earlier one. They should govern with justice and make the fear of God the rule with themselves. It, also, shows that, perhaps, it had been revealed to the Holy Prophet ﷺ that Mua'wiya ﵁ will come into power one day. Thus, he served as the Governer of Syria during the reigns of Sayyidina Umar ﵁ and Sayyidina Uthman ﵁, and later, rose to be the Head of the Islamic State after the Treaty with Sayyidina Hasan ﵁.

(١٨٤٧/١٤٠) عَنْ عُمَرَ بْنِ الْخَطَّابِ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ اَفْضَلَ عِبَادِ اللهِ مَنْزِلَةً يَوْمَ الْقِيٰمَةِ اِمَامٌ عَادِلٌ وَ اِنَّ شَرَّالنَّاسِ عِنْدَاللهِ مَنْزِلَةً يَوْمَ الْقِيٰمَةِ اِمَامٌ جَائِرٌ خَرِقٌ. (رواه البهيقى فى شعب الايمان)

(1847/140) Umar ibn Al-Khattab ﵁ relates saying that the Messenger of Allah ﷺ said: "The best of men, in the sight of God, on the Day of Resurrection, will be just and benevolent rulers, and the worst of men, in the sight of God, on the Day of Resurrection, will be unjust and tyrannical rulers." (Bahiahqi)

Commentary: It shows that, in adition to being just and God-fearing, a ruler should also, be kind and considerate in the exercise of his powers.

Enjoining Upon The Rulers to Be Well-Wishers of The People

(١٨٤٨/١٤١) عَنْ مَعْقِلِ بْنِ يَسَارٍ قَالَ سَمِعْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُوْلُ مَا مِنْ عَبْدٍ يَسْتَرْعِيْهِ اللهُ رَعِيَّةً فَلَمْ يُحِطْهَا بِنَصِيْحَةٍ اِلَّا لَمْ يَجِدْ رَائِحَةَ الْجَنَّةِ. (رواه البخارى و مسلم)

(1848/141) M'aqil ibn Yassar ﵁ narrated to us: "I heard the Messenger of Allah ﷺ say: "Whoever is made the ruler of a people by God, and does not, sincerely, look after their welfare, he shall not smell the fragrance of Paradise." (Bukhari & Muslim)

Commentary: It tells that the ruler should take keen and sincere

interest in the welfare of his people. If he failed to do so and was neglectful of their needs and comforts, Paradise, and even its sweet smell would be denied to him.

In it, and some other Traditions, the ruler is described as *Ra'ee* and the subjects as *Raiyyah*. In Arabic, *Ra'ee* denotes the shepherd, and *Raiyyah*, the herd he guards. The two terms are enought to show what the concept of leadership and government is in Islam, and what are the duties of a leader or ruler.

The Doors of The Rulers Should Always Remain Open for The Petitioners

(١٨٤٩/١٤٢) عَنْ عَمرِو بْنِ مُرَّةَ اَنَّهُ قَالَ لِمُعَاوِيَةَ سَمِعْتُ رَسُوْلَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَا مِنْ اِمَامٍ يُغْلِقُ بَابَهُ دُوْنَ ذَوِى الْحَاجَةِ وَالْخَلَّةِ وَالْمَسْكَنَةِ اِلَّا اَغْلَقَ اللهُ اَبْوَابَ السَّمَاءِ دُوْنَ خَلَّتِهِ وَ حَاجَتِهِ وَمَسْكَنَتِهِ. (رواه الترمذى)

(1849/142) It is narrated on the authority of Amr ibn Murrah ﵁ that he told Mu'awiya ﵁ that he heard the Messenger of Allah ﷺ say: "The ruler who will shut his door to the weak and needy bondsmen, God will shut the doors of the heavens at the time of his distress and privation. Help will not reach him from God in the hour of his need." (Tirmizi)

Commentary: The doors of the holy Prophet ﷺ, and, after him, of *Khulfa Rashideen*, always remined open for the suppliants and petitioners. They had a free access to them and could meet and place their difficulties before them without any trouble. But when the *Kharijis* took the terrorism and Sayyidina Uthman ﵁ was martyred by them and an attempt also was made on the life of Sayyidina Mu'awiya ﵁, the latter placed restrictions on visitors. It was, then, that Sayyidina Amr ibn Murrah ﵁ related the above saying of the holy Prophet ﷺ to him. It is furhter mentioned in the same report that after it Sayyidina Muawiya ﵁ appointed an officer who used to listen to the needs and grievances of the people and pass them on to him.

The Order of The Ruler Should be Carried Out Provided That it is Not Against The *Shari'ah*

(١٤٣/١٨٥٠) عَنْ اِبْنِ عُمَرَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَلسَّمْعُ وَالطَّاعَةُ عَلَى الْمَرْءِ الْمُسْلِمِ فِيْمَا اَحَبَّ وَكَرِهَ مَالَمْ يُؤْمَرْ بِمَعْصِيَةٍ فَإِذَا اُمِرَ بِمُعْصِيَةٍ فَلَا سَمْعَ وَلَا طَاعَةَ. (رواه البخاری ومسلم)

(1850/143) It is narrated by Abdullah ibn Umar ﷺ that the Messenger of Allah ﷺ said: "It is is the duty of a Believer to listen and obey (the commands of) men in authroity, in matters he likes a well as in matters he does not like as long as he is not told to do a thing that is sinful. When, however, the person in authority, gives an order for something that is against the *Shariah,* the command to listen and obey will not apply."

(Bukhari and Muslim)

Commentary: It emphasises that if the ruler tells anyone to do a thing that may not be to his liking, but is not against the *Shariah,* it is his duty to carry it out, irrespective of his own inclintion or judement. there will, ostensibly, crop up difficulties and confusion at each step if it is not done. But if the ruler gives an order that is inimical to the letter or spirit of *Shariah*, the should not be obeyed. The commandment of God and his *Shariah* must prevail.

(١٤٤/١٨٥١) عَنْ اَبِیْ سَعِيْدٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اَفْضَلُ الْجِهَادِ مَنْ قَالَ كَلِمَةَ حَقٍّ عِنْدَ سُلْطَانٍ جَابِرٍ.

(رواه الترمذی و ابو داؤد و ابن ماجه)

(1851/144) It is narrated by Sa'eed Khudri ﷺ that Messenger of Allah ﷺ said: "To say a just word before a tyrannical ruler is the best of Jihad." Tirmizi, Abu Dawood and Ibn Majah

Commentary: Though in a war there is the danger of defeat and death, there is, also, the hope of victory. But one, positively, risks his life or at least invites punishemt if one dares speak out boldly before a cruel and unjust ruler. For this reason, perhaps, it has been called "the best of *Jihad.*"

It is Not Wise to Have A Woman as Ruler

(١٤٥/١٨٥٢) عَنْ اَبِیْ بَکْرَۃَ قَالَ لَمَّا بَلَغَ رَسُوْلَ اللّٰہِ صَلَّی اللّٰہُ عَلَیْہِ وَسَلَّمَ اَنَّ اَھْلَ فَارِسَ قَدْمَلَّکُوْاعَلَیْھِمْ بِنْتَ کِسْرٰی قَالَ لَنْ یُّفْلِحَ قَوْمٌ وَلَّوْا اَمْرَھُمْ اِمْرَاءۃً

(رواہ البخاری)

(1852/145) Narrates Abu Bakrah ﵁ that when the news reached the Messenger of Allah ﷺ that the people of Persia had made the daughter of Kisra (Cyrus[1]), their ruler, he remarked: "That country will not prosper which makes a woman its ruler."

(Bukhari)

Commentary: The difference between the physical, biological and mental charracteristics of the two sexes shows that the woman has not been created to perform the functions of a sovereign or Head of the Gvernment. If a woman is in power anywhere, it is contrary to the aim and design of Nature, and should be regarded as one of the many unnatural things that have been and are taking place in the world around us.

A Ruler Appoint His Successor or Leave it to Men of Influence And Discernment

Under the influence of the Western democratic system, some people have begun to imagine that there is no place of the nomination of his successor by the ruler under the Islamic scheme of things. This however, is the result of pure moral and intellectual servility and imitativeness. The correctness or otherwise of nomination depends, primarily on men and circumstances. If the ruler, honestly feels about a person that he is more suited to the high office, and the people, too, will accept him willingly, his appointment as the successor will not only be just, but also, expedient. Sayyidina Abu Bakr ﵁ had appointed Sayyidina Umar ﵁ to succeed him as the Caliph in a similar situation, and the holy Prophet ﷺ, too, had resolved to appoint Sayyidina Abu Bakr ﵁ as his successor, during his last illness, but then, it was revealed to him and he attained certitude that the latter was going to be the Caliph after him, it was the Will of God, and the choice of the

❶. The surname of several Kings of Persia. It is, commonly, applied to Nausherwan who lived in the time of Justinian.

people, too, would fall upon him, and, hence, he refrained from making a formal announcement, yet by asking Sayyidina Abu Bakr ﷺ to lead the prayers, in his place, during the last days of his life, he had given an ample indication of it.

Be that as it may, should the ruler be sure in his mind that the designation of anyone as his successor will be better and wiser from the yiewpoint of Faith and the *Ummah*, he is entitled to do so, and the person so named will be the rightful Caliph. Nevertheless, if he feels that instead of making the nomination himself, it will be more expedient to entrust it to a council of leding men of the *Ummah*, as Sayyidina Umar ﷺ had done it too will be correct. The range of choice can also be enlarged if needed. From the practice of the holy Prophet ﷺ and the illustrious Caliphs who followed him immediately, it appears that it is the aim and purpose that matters. There is no fixed rule or method for the nomination or selection of the ruler. It can be decided upon as the circumstances require, and in accordance with the objectives of the Faith and the commandments of the *Shariah*.

(١٨٥٣/١٤٦) عَنْ عَائِشَةَ قَالَتْ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِيْ مَرَضِهٖ ادْعِيْ لِيْ اَبَا بَكْرٍ اَبَاكِ وَاَخَاكِ حَتّٰى اَكْتُبَ كِتَابًا فَاِنِّيْ اَخَافُ اَنْ يَّتَمَنّٰى مُتَمَنٍّ وَيَقُوْلُ قَائِلٌ اَنَا وَلَا وَيَأْبَى اللهُ وَالْمُؤْمِنُوْنَ اِلَّا اَبَا بَكْرٍ. (رواه مسلم)

(1853/146) Sayyidah Ayshah رضى الله عنها narrated to us, sying that during his illness, the Messenger of Allah ﷺ said to her: "(O Ayshah)! Send word to your father, Abu Bakr ﷺ, and brother, (Abdul Rahman ibn Abu Bakr ﷺ), to come and see me so that I may have the deed (concerning the Caliphate) written. I fear that someone, (desirous) of the Caliphate, will express the desire for it, and someone will claim that he deserves while he will not be deserving; and no one will be acceptable to God and the Believers except Abu Bakr ﷺ." (Muslim)

Commentary: It shows that when the holy Prophet ﷺ was mortally ill, he had decided to nominate Sayyidina Abu Bakr ﷺ as the Caliph after himself and have the instrument of Caliphate written, and he had also wanted to send for Sayyidina Abu Bakr ﷺ, and his son Sayyidina Abdul Rahman ibn Abu Bakr رضى الله عنهما,

for that purpose but then it was revealed to him that it had already been settled by God and the Believers were not going to choose anyone as the Caliph except Sayyidina Abu Bakr ﷺ. He, consequently changed his mind thinking that it would be better if Sayyidina Abu Bakr ﷺ became the Caliph by the choice of the Muslim and without being named by him.

Anyway, this much is clear from the above Tradition that nomination of the successor by the ruler was one of the ways the Holy Prophet ﷺ had thought and he had also spoken of it. When Sayyidina Abu Bakr ﷺ designated Sayyidina Umar ﷺ as his successor, he, perhaps was guided by it. Later, when Sayyidina Umar ﷺ entrusted the task to a council of advisers instead of makking the nomination himself he too had taken the inspiration from the conduct of the Holy Prophet ﷺ.

To sum up this Tradition tells both the methods of nomination and selection are correct for the appointment of the Caliph or ruler.

Caliphate on The Lines of Messengership Only for 30 Years

(١٤٧/١٨٥٤) عَنْ سَفِينَةَ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ خِلَافَةُ النُّبُوَّةِ ثَلَاثُوْنَ سَنَةً ثُمَّ يُؤْتِى اللهُ الْمُلْكَ مَنْ يَّشَاءُ. (رواه ابور داؤد)

(1854/148) It is narrated by Safinah ﷺ that the Messenger of Allah ﷺ said: "The Caliphate ı.e., Leadership of the government in accordance with the rules, standards and practices of Messenger ﷺ will only last for thirty years. After it, the Lord will bestwo Kingship upon whosoever He likes."

(Abu Dawood)

Commentary: It had been revealed to the holy Prophet ﷺ that, among his followers, the system of government based, as far as possible, upon his ideals principles and course of conduct was going to endure only for 30 years after him and then monarchy would be established. The prediction proved to be true to the letter. Within thirtieth year of the Prophet's ﷺ death, Sayyidina Ali ﷺ was assassinated. After him his eldest son, Sayyidina Hasan ﷺ, became the Caliph, and in a few months, he made peace with Sayyidina Muawiya ﷺ for the sake of ringing to an end the civil

war among the Muslims, and relinquished Caliphate in his favour. If the few months of Sayyidina Hasan's ﷺ rule, too were included, it would make full thirty years. The Caliphate on the lines of Messengership, or *Khilafat Rahsida*, which has been described as Caliphate of Messengership in this Tradition, thus lasted only for 30 years, after which things began to change and gradually Caliphate took the form of Kingship.

Like the other prophecies of the holy Prophet ﷺ, this Tradition too is regarded a miracle of his, and a clear sign of his Messengership.

Proper Way of Counselling Kings And Rulers

(١٨٥٥/١٤٩) عَنْ عَيَاضِ بْنِ غُنْمٍ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَنْ اَرَادَ اَنْ يَّنْصَحَ لِذِىْ سُلْطَانٍ بِاَمْرٍ فَلَا يُبْدُلَهُ عَلَانِيَةً وَلٰكِنْ لِيَاخُذْ بِيَدِهٖ فَيَخْلُوْ بِهٖ فَاِنْ قَبِلَ مِنْهُ فَذَاكَ وَ اِلَّا كَانَ قَدْ اَدّٰى الَّذِىْ عَلَيْهِ. (رواه احمد)

(1855/149) It is narrated by Ayaad ibn Ghunm ﷺ that the Messenger of Allah ﷺ said: "Whoever wants to give advice to a ruler should not do so publicly, i.e., in the presence of others, but taking his hands, he should tell him what he wants in privacy. Now, if he accepts the advice, well and good and if he does not, the adviser will have done his duty." (Musnad Ahamd)

Commentary Prudence will demand that advice tendered, particualarly to those who occupy a high position and have the power to affect others in privacy. it will evoke trust in them and make them feel that the person giving the advice is a sincere well-wisher and has no axe to grind. On the contrary, if the advice is given in the presence of others, the person spoken to may feel hurt and humiliated and his reaction may be the worse of what is described.

The Tyranny of Rulers is The Result of Our Own Evildoing, And A Punishment From Allah

(١٨٥٦/١٥٠) عَنْ اَبِى الدَّرْدَاءِ قَالَ قَالَ رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اِنَّ اللهَ تَعَالٰى يَقُوْلُ اَنَا اللهُ لَا اِلٰهَ اِلَّا اَنَا مَالِكُ الْمُلُوْكِ وَمَلِكُ الْمُلُوْكِ قُلُوْبُ

الْمُلُوْکِ فِیْ یَدِیْ وَاِنَّ الْعِبَادَ اِذَا اَطَاعُوْنِیْ حَوَّلْتُ قُلُوْبَ مُلُوْکِهِمْ عَلَیْهِمْ بِالرَّحْمَةِ وَالرَّأفَةِ وَاِنَّ الْعِبَادَ اِذَا عَصَوْنِیْ حَوَّلْتُ قُلُوْبَهُمْ بِالسَّخْطَةِ وَالنَّقْمَةِ فَسَامُوْهُمْ سُوْءَ الْعَذَابِ فَلَا تُشْغِلُوْا اَنْفُسَکُمْ بِالدُّعَاءِ عَلَی الْمُلُوْکِ وَلٰکِنْ اَشْغِلُوْا اَنْفُسَکُمْ بِالذِّکْرِ وَالتَّضَرُّعِ کَیْ اَکْفِیَکُمْ مُلُوْکَکُمْ.

(رواه ابو نعیم فی الحلیة)

(1856/150) It is narrated by Abu Darda ﷺ that the Messenger of Allah ﷺ siad: "God says: "I, alone, am God, and there is no Deity save Me. I am the King of Kings, the Lord of the Lords. The hearts of the sovereigns of the world are in my Plan, (and), (My practice is) that when My bondsmen obey Me, I incline the hearts of their rulers with love and compassion towards them and when they take to the path of transgression and disobedience, I turn the hearts of their rulers with anger and punishment against them, and then, they oppress them severely. Thus, do not engage yourselves in cursing the ruler, but turn to Me in remembrance and earnest repentance so that I may suffice for you in deliverance from the tyranny and despotism of the rulers." (Abu Na'eem)

Commentary: For everything that takes place in the world, good or evil, there are some apparent and some hidden reasons. In this Tradition, the holy Prophet ﷺ had declared, in the words of the Lord Himself, that the type of rulers people get, and the way they govern is, in fact, the outcome of their own deeds and actions. The standing command and proclamation of the Supreme Being, the Author of all things, is that "I am the King of Kings, the Lord of Lords. The hearts of the rulers are in My control, and My practice is that when people, on the whole lead a life of submission and obedience, I produce affection and benevolence for them in the hearts of their rulers, while if they, in general, take to the path of intersigence and wrong doing, I give rise to feelings of anger and cruelty in their rulers hearts. In fact, it is My Wrath and Displeasure, and the rulers are, only, the instruments. So, when the rulers are unjust and curel, do not curse them as it will avail nothing, but remember Me, feel genuinely sorry for your misdeeds, seek My forgiveness, and reform your ways. It is the only way to obtain relief from oppression and injustice of the rulers."